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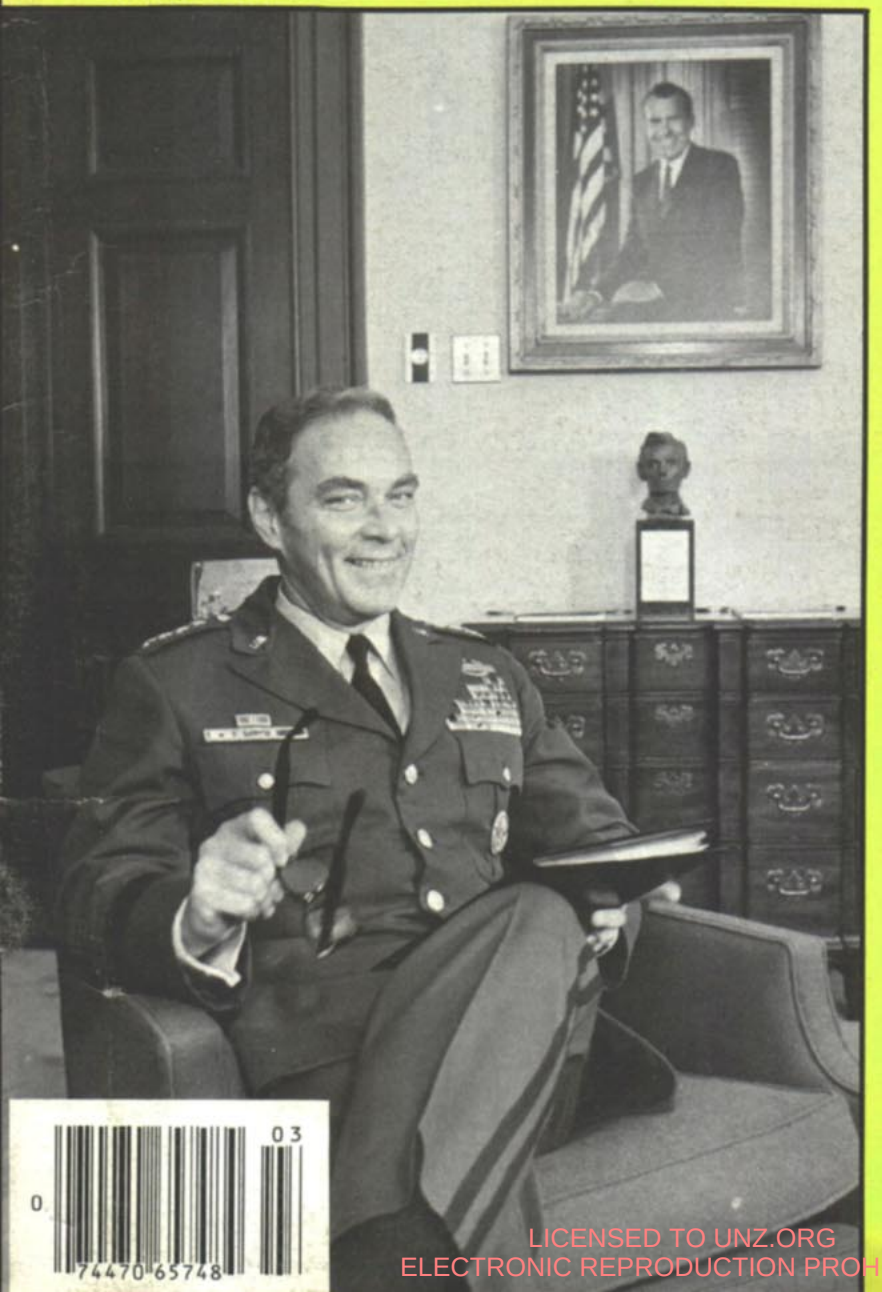

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We're doing what has to be done.

Insurance Fraud.

It costs you money. It costs us money. That's why Property-Casualty insurance companies are trying to stamp it out.

What you're going to read is a story of corruption—and how it was ended. The place: Baltimore. The specific act: auto insurance fraud. By whom: a few unscrupulous doctors and lawyers who created a fraud ring, and who encouraged otherwise honest consumers to take part.

In January, 1973, a number of suspected fraudulent claims from the Baltimore area were submitted to the Insurance Crime Prevention Institute for review. An agent in Baltimore was assigned to determine if there was any substance to the allegation of fraud.

He soon noticed that the names of certain doctors appeared in a remarkably large number of insurance claims for bodily injuries sustained in automobile accidents. As he continued his investigation, the names of certain attorneys representing "victims" of accidents began appearing with the same remarkable frequency.

Was it coincidence—or was it fraud? Only legwork could determine the truth. So the agent began the laborious process of documenting the pertinent information from hundreds of files involving these doctors and lawyers and, finally, of interviewing claimant-witnesses. Until, at last, it seemed clear that there was enough iron-clad information to warrant prosecution.

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By the summer of 1974, arrests were being made. A number of Baltimore doctors and lawyers were indicted and tried. Results: five convicted doctors served time in prison; six were fined a total of $67,000. Five lawyers were convicted of insurance fraud; two resigned their practices; two had their licenses suspended; six were disbarred.

What is the point? The policyholder benefited. According to the Insurance Crime Prevention Institute, the average Baltimore resident today pays an estimated 8% to 10% less for automobile insurance than he would have, had not ICPI cracked the fraud ring.

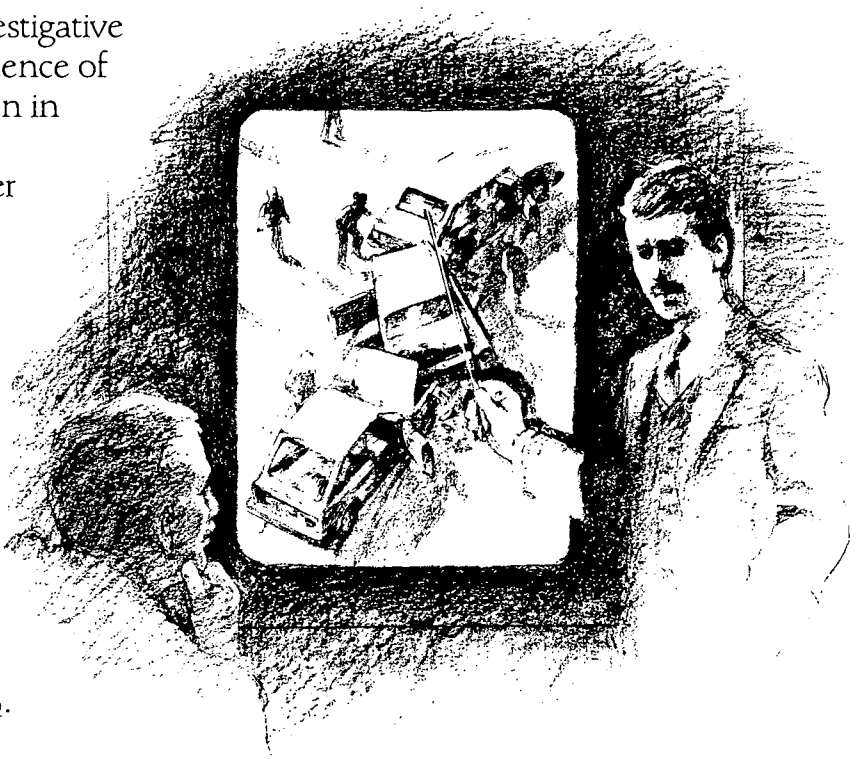
Property-Casualty insurance companies created the Insurance Crime Prevention Institute in 1971 to fill the need for an independent investigative agency that could collect evidence of insurance fraud for prosecution in criminal court.

ICPI agents are all former police officers, FBI agents, or postal inspectors, who have been trained as specialists in insurance fraud. They know what evidence to look for, where to find it, and how to put a case together for successful prosecution.

In its first seven years of operation, ICPI investigations resulted in more than 6,000 arrests and a conviction rate of over 90%.

It would be naive to believe that insurance fraud can be eliminated. But we know it can be reduced. We know, too, that some people feel that an exaggerated claim is "justifiable revenge" against an insurance company. In reality, it's a crime against all the people who share in the insurance pool, because it drives up the costs which ultimately must be reflected in the premiums policyholders pay.

That's why Property-Casualty insurance companies are supporting ICPI and are stepping up their own fraud-fighting activities. We think these efforts are in the best interests of our policyholders, of our business, and of our troubled society.



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Letters

Pass the Fifth

Congratulations on your article on the 5th Amendment ["Abolish the Fifth Amendment!" by Robert M. Kaus, December].

It is not necessary to abolish the amendment, however, merely to stick to its original meaning. An intelligent judiciary could do this without a constitutional amendment.

SIDNEY HOOK
Stanford, California

Kaus's article exposes well the flimsy rationale for the Fifth Amendment's constitutional protection of criminals. As an attorney, I frequently encounter sordid applications of this device. A case I recently tried in Houston illustrates this point. It involved possible civil and criminal violations of the antitrust laws. In a lawsuit on behalf of hundreds of thousands of purchasers of cardboard boxes who sought compensation for overcharges resulting from price-fixing activity, almost 180 executives who sold these boxes refused to answer questions concerning their actions by claiming that answers would tend to incriminate them.

WILLIAM H. WHITE
Houston, Texas

The framers of the Bill of Rights were capable of more subtle reasoning than Kaus gives them credit for. The principal protection offered by the prohibition of compulsory self-incrimination does not manifest itself when the innocent suspect is actually in the courtroom; it has more to do with the treatment of the witness before the trial.

By offering the defendant the option of refusing to testify, we can protect him from abusive and coercive police practices *before* the trial. If police know that the defendant can simply refuse to take the stand they are less likely to spend their time trying to influence his testimony.

TIM WELCH
Atlanta, Georgia

It may well be that a fair-minded and honest argument can be made for repeal of the self-incrimination clause of the Fifth Amendment. But Kaus's principal achievement is to show that he isn't the one to make it.

His most egregious error is to make the 1977 Supreme Court decision in the case of *Brewer v. Williams* the showpiece of his collection of horrors he says the amendment has caused. The problem with his example is that *Williams* wasn't a Fifth Amendment case at all.

When the Court held that the jury at Williams's trial shouldn't have heard about what he said and did during his trip with the police from Davenport to Des Moines, it relied on a different right and a different amendment. The Court found that the police had interfered with Williams's right to counsel under the *Sixth* Amendment. It expressly declined to base its decision on any violations of the Fifth Amendment *Miranda* rule. Instead, Williams's admission shouldn't have been introduced at the trial, the Court said, because "so clear a violation of the Sixth and Fourteenth Amendments as here occurred cannot be condoned."

I know for a fact Kaus understood that *Williams* was a Sixth Amendment case. While working on the article, he called me to see if I could help provide examples of outrages the courts have committed in the name of the Fifth Amendment. As we talked the *Williams* case came up, and he agreed that it didn't serve his purposes, since it involved the wrong amendment. Writing as he does in a town full of lawyers, how did he think he could get away with it?

WILLIAM J. MERTENS
Washington, D.C.

I read Robert Kaus's article with interest. It brings back memories of times when the Fifth Amendment has been a very important part of our legal and social structure.

I am greatly puzzled by the statement the author makes about me. He says I felt "compelled to defend" the Fifth Amendment against "right-wing critics," although I "later recanted." I know of no basis for the latter part of that statement. To the best of my knowledge I have never recanted about the Fifth Amendment, although there may be difficult questions about its interpretation and application.

To put it in a nutshell: I would not want to live in a country which did not have available what we call the privilege against self-incrimination in the Fifth Amendment. There are such countries, and they do not appeal to me.

ERWIN N. GRISWOLD
Washington, D.C.

The author replies:

I refuse to answer on the grounds that it might tend to incriminate me.

How would you feel if I gave that response to the charges posed by Mr. Mertens and Mr. Griswold? A little suspicious, perhaps? Good. That is the basic

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point about the Fifth Amendment. In practice, it offers powerful protection to the guilty, and virtually no protection to the innocent. An innocent suspect does not need the Fifth—indeed, he will seek to answer as quickly as possible the accusations against him. I'll start with Mr. Griswold.

In a 1960 article, Griswold explained that his 1955 defenses of the Fifth Amendment "were made under some emotional pressure," and concluded: "Others have said, and I think they are right, that the privilege [against self-incrimination] protects the guilty more often than it does the innocent. It was a mistake, I now think, to undertake to defend the privilege on the ground that it is basically designed to protect those innocent of crime, at least in any numerical sense. It is enough to say that the privilege is available to protect those who are guilty only of heretical and unpopular beliefs."

Griswold thus admitted what his (and many other) McCarthy-era defenses of the Fifth Amendment had left unsaid—namely that there is a dramatic distinction between stopping a prosecution directed at "heretical and unpopular beliefs," and the use of the Fifth Amendment to protect those who are guilty of other, ordinary crimes like robbery and murder. Unfortunately, Griswold did not draw the logical conclusion that the use of the Fifth in the ordinary criminal case—where no McCarthyesque persecution is involved—is insupportable. Like many lawyers who have spent their lives expounding and defending the Constitution, he seems unwilling to imagine an alternative—in this instance a less sweeping constitutional provision that would protect the local Communist but not the local rapist.

So I was guilty, but only of exaggeration, when I said that Griswold "recanted." His 1960 retreat was not quite so dramatic—nor so sensible.

Mertens's charge raises a point that troubled many of my lawyer friends, but I stand behind the treatment of the *Williams* case in my article. *Williams* reversed the conviction of a child-killer who revealed to police the whereabouts of his victim's body while riding in a car from Davenport, Iowa, to Des Moines, where his attorney was waiting to see him. A detective obtained the tacit confession by delivering a speech appealing to Williams's religious beliefs. The Supreme Court said it was throwing out this evidence because Williams had not "waived" his right under the Sixth Amendment to have a lawyer present when he was "interrogated."

When I talked with Mr. Mertens, I knew that the majority had labeled *Williams* a "Sixth Amendment case," although whole forests have been laid waste as legal writers have tried to make sense out of the justices' approach. (*Williams* is one of those Burger Court decisions where you long for Woodward and Armstrong to tell you what was *really* going on.) At the time of our conversation, I also believed, as Mertens reports, that *Williams* was one outrage that couldn't be blamed on the Fifth Amendment.

But the more I read through the cases on police questioning, the more I became convinced that the overriding problem was a perverse judicial mentality regarding criminal confessions. These attitudes, as I tried to describe them, are rooted in the Fifth Amendment's mystical abhorrence of self-incrimination, but they find expression in both standard Fifth Amendment cases *and* in cases involving a suspect's "right to the presence of an attorney." The result, I argued, is that "judges have created a web of procedures that...seem to have as their hidden purpose the maximizing of the number of times when the Fifth Amendment will be employed by the guilty to frustrate the police. When a suspect is on the verge of confessing, the police must warn him not to. At all times, he is to be whisked as quickly as possible under the protective wing of a lawyer who will try to prevent him from opening his mouth."

I said that in the *Williams* case "these attitudes came together most vividly," and so they did. I didn't try to hide the fact that *Williams* was a "right to counsel" case. (I explicitly stated the Court declared that Williams's confession "should not have been admitted into evidence because the government had not met 'its heavy burden of showing a...waiver by Williams of his right to legal representation.'")

What I was trying to avoid was the lawyer's tendency to label cases as either "a Fifth Amendment case" or "a Sixth Amendment case" as if the two had nothing to do with each other. The existence of the Fifth Amendment has everything to do with what the Sixth Amendment's "right to counsel" means in practice. Specifically, the Fifth Amendment makes life easy for a suspect's counsel—all he has to do when he arrives at the police station is tell his client to shut up. There is no "down side" risk to giving this advice, since the Fifth Amendment also prohibits a jury from concluding that a suspect's failure to come forward immediately with an alibi is in any way suspicious. Not just the Sixth Amendment, but our whole system of police and defense strategy, is structured around these basic facts of Fifth Amendment life.

The *Williams* case remains a perfect illustration of how this system works. Williams initially surrendered to the Davenport police as part of a "deal" between them and his Des Moines attorney. The deal was that

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Letters

(continued)

Williams would surrender, but the police would not "interrogate" him until he had been driven to Des Moines to converse with the lawyer. Then, as summarized by Justice Thurgood Marshall, "the location of the body would be revealed to police....[Williams's lawyer] would learn it from his client and then he would lead police to the body. Williams would thereby be protected by the attorney-client privilege from incriminating himself by directly demonstrating his knowledge of the body's location."

Nice deal, huh? Justice Marshall (and here is the attitude I'm talking about) seemed to think it was a wonderful arrangement. All it would have done, after all, is prevent the most powerful piece of evidence of the killer's guilt from being used at trial ("protected by the attorney-client privilege") and force the police to delay from three to eight hours the search for an innocent young girl who might have still been alive but freezing to death in the winter night.

Why was Williams's lawyer able to extort this grotesque agreement, and why did it seem like a perfectly normal negotiation to the majority of the Supreme Court? Answer: not the Sixth Amendment, but the Fifth. The Fifth Amendment put Williams's lawyer in the driver's seat. He could, by advising his client to keep quiet, prevent the police from *ever* being told by Williams of the body's location—prevent them from even *asking* Williams about his possible relation to the crime. Under the circumstances, a delay of several hours may have been the best the police could get—though it is understandable that they tried to jump the gun and bend the agreement by appealing to Williams to confess during the long car ride.

The point is not, then, that the "Sixth Amendment" *Williams* case would have been decided differently if we didn't have the Fifth Amendment. The point is that cases like *Williams* would not happen in the first place. Imagine, if you will, a suspect who turns up at the police station and is given, instead of the familiar *Miranda* warnings ("you have the right to remain silent; you have a right to an attorney," etc.) a speech that goes something like this:

"We are allowed by law to ask you relevant questions in a reasonable manner. You have an absolute right to refuse to answer our questions, and under the Constitution no attempt may be made to coerce you into answering them. If any police officer abuses you, either physically or psychologically, you may sue him and recover damages that may total many thousands of dollars. In order to further insure that no such thing occurs, you are entitled to the presence of an attorney while we question you. But although you don't have to answer our inquiries, keep in mind that you may ultimately be called to testify at a trial or before a grand jury, and your failure to provide answers today may look suspicious at that later date."

I find it impossible to see how such a system would threaten a suspect in any way that should disturb us. What it would do, however, is make a defense attorney's life extremely difficult. No longer could he demand that the police stop questioning his client. He would not have the bargaining power to force elaborate "deals" to protect the suspect from the evidence. An attorney might even have to sit and watch while his client actually answered the relevant questions. (How would it look to a jury later on if the police asked Williams what he had been doing on the day of the crime and, after a huddle with his client, Williams's lawyer said, "We'd rather not talk about that one"?) Finally, the police wouldn't feel the need themselves to resort to ruses—like long car rides—as an excuse to isolate suspects from their lawyers. A lawyer could, if necessary, have been allowed to ride along with Williams, without fear that the lawyer could veto any questioning. And the police could appeal to Williams's conscience all they wanted. In short, *Williams* would have been a routine murder conviction, not a Supreme Court *cause celebre*.

I do not agree with Mr. Welch that such a system, freed from the unnecessary protections afforded the guilty by the Fifth Amendment, would encourage the police to abuse the innocent (or the guilty, for that matter). On the contrary, it is precisely because the police now "know that the defendant can simply refuse to take the stand" that they are likely to spend the time before trial trying to coerce a confession from him. The police abuses that *Miranda* was designed to prevent occurred, after all, under the Fifth Amendment regime, where every detective knew that the orderly processes of questioning under oath were useless for getting any information out of a defendant.

Finally, let me disagree with Mr. Hook. There seems no doubt that the "original meaning" of the Fifth Amendment was that an accused, unless he volunteers, should not be subject to questioning under oath at a criminal proceeding. My argument is that this is precisely what *should* happen. So I don't see how the change could be accomplished without either amending the Fifth Amendment or deliberately ignoring its unfortunate "original meaning." It is comforting to pretend that all of the problems in our constitution are the result of silly judicial perversions of the Founding Fathers' immutable wisdom. It just isn't true. The Fathers made some mistakes, and the Fifth Amendment is one of them.

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Today, choosing the right kind of mortgage is as important as choosing the right house. The 30-year, fixed-rate loan has been joined by a variety of new types of mortgages, designed to help home buyers and lenders cope with rapidly changing interest rates.

THE STANDARD MORTGAGE

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MORTGAGES WITH CHANGING RATES

Another new type of loan comes in a variety of forms, called adjustable rate, variable rate or renegotiated rate mortgages. They all work basically the same way: their interest rates will go up or down, within stated limits, over the term of the loan. The amount of the adjustment depends upon changes in prevailing interest rates. Lenders frequently offer lower initial rates on these loans than for standard fixed-rate mortgages.

ASK QUESTIONS UNTIL YOU'RE SURE

Choosing the right kind of mortgage is more complicated and probably more important now than ever before. It makes sense to talk to someone experienced in real estate, to ask lots of questions all along the way, and to compare the offerings of all types of lenders, such as savings and loan associations, banks, mortgage companies and credit unions.

For additional information to help you shop for a mortgage to fit your particular needs, write for our free booklet.

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The *Monthly* Journalism Award is presented each month to the best newspaper or magazine article (or series of articles) on our political system. Nominations from any newspaper or magazine anywhere in the country are welcome. The subject can be government in its federal, state, or municipal manifestations.

The award for articles published in March, 1981 will be announced in the June issue. Nominations will close on April 15. Nominations should be accompanied by two copies of the article or articles.

Please send nominations to:

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Tilting at windmills

If you want to understand the very essence of Washington, attend carefully to this story. It involves an old friend of mine who, from time to time, acts as a lobbyist for various clients, and a wise old congressional leader who knows practically everything there is to know about the city and its ways. My friend had sought the leader's help in the early stages of getting a bill passed for one of his richer clients. After the initial help was given, the ball began to roll so well that the bill was passed without any further contact between the leader and my friend. Then one day they ran into each other at a party. The leader said to my friend, "Why did you get that bill through so fast? Now your client pays you and that's that. You have to stretch these things out so your meter can keep running. Have a committee hearing in one session, get the bill out of committee in the next, and get it passed in a third. Don't spoil the client with quick success. It's not good for your pocketbook." . . .

The leader's advice was Washington speaking. Stretch it out. That is what makes your job last. That's how temporary government agencies live on and on. It is probably true in my friend's case that he not only cost himself money but also deprived his opposition lobbyists of income and the staffs of the House and Senate committees and the federal agencies involved of one of their excuses for being. . . .

I am reminded of another great Washington principle by the appointment of Fred Fielding as White House counsel. Fielding, you will recall, was John Dean's assistant in the good old days of Watergate. Dean describes how, when Fielding joined the office, Dean called him in and said:

"'Fred, I think we have to look at our office as a small law firm at the White House. We have to build our law practice like any other law firm. Our principal client, of course, is the president. But to convince the president that we're not just the only law office in town but the best, we've got to convince a lot of other people first. Haldeman, Ehrlichman, and the others who surround the president. Here's how we can do it.'

"Our conflict-of-interest duties were the key. The work was complicated and boring, but I had already sensed that it would produce new business. 'It seems that when you really get to know a man's personal financial situation,' [Dean] said, 'and then candidly discuss his job here to determine if he has any complaint, you can end up in his confidence if you play it right. And once you're in his confidence, he sends you business.'"

Dean puts the matter delicately. The truth is that the guy is scared of you. You know things about him he doesn't want everyone to know. So of course he sends his business to you. He wants to keep you happy.

There are earnest young lawyers in offices all over Washington thinking of ways to get business for themselves. A tactic more common than Dean's is to convince the client, whether he be a government or corporate official, that his problem has a legal aspect, whether it does or not. As soon as you get your hands on the problem, you of course make sure that it does have a legal aspect—in fact lots of them, enough to keep you busy for a long time. . . .

In recent years I have not been a great admirer of the work of Evans and Novak. But in January they wrote what is by far the most insightful article I've read about Ronald Reagan. Since it appeared only in the magazine section of a local

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newspaper, and the best part was buried beside a Sears "Big Sale" ad, I will give you a few excerpts:

"He has no interest in political small talk . . . he does not enjoy conversational banter about great themes. Politicians and reporters brought to his home in Pacific Palisades to probe his mind have been given slightly revised versions of the speech themes inscribed on the famous 3-by-5 cards. As for anecdotes about those eight eventful, often turbulent years as governor, he relates none.

"What he likes to talk about is the old days in the movies. We found that out on the occasions when we have been alone with Reagan—especially a small plane ride in 1975 from Jackson, Mississippi, to West Palm Beach, Florida, that took more than four hours because of thunderstorms. Only a non-talking bodyguard-aide was present, and we envisioned a golden opportunity for political news prospecting.

"But Reagan had no interest in talking politics, particularly as the storm grew more violent and the ride bumpier. Fortified by two drinks (one more than usual), Reagan poured forth a stream of the dialect jokes he enjoys so much and the Hollywood anecdotes—about Harpo Marx, about Sam Goldwyn, about his own days as a bachelor on the loose. . . ."

Do you remember my heroine, Blythe Babyak? As the wife of an assistant secretary of state, she had to attend many Washington dinner parties and endure the fate they impose of two hours sitting at a table trying to think of things to say to the dull man on her right and the even duller man on her left. Finally, in the midst of one such gathering, she did what all of us have yearned to do: she stood up, announced she couldn't stand it any longer, and walked out. But some Washington women are unbelievably skilled at not only enduring this situation but even seeming to enjoy it. I have had dinner partners who seemed so delighted at my company, so charmed by my every word, that I became convinced they really were interested in me. Convinced, that is, until we ran into each other on the street a few months later and they seemed to have trouble placing me. When that happens I begin to fear that I may be becoming the kind of insufferably self-important Washington male who doesn't even notice that he is boring everyone. Or, the worst case, as exemplified by a former cabinet secretary I dined with recently: His career was in slight eclipse, but he had been a star of the Washington social circuit, and he obviously expected the ladies on either side to turn all their charm on him. But when, after a few courteous exchanges, each turned to the partner on her *other* side, he went into a funk and left before coffee was served. . . .

Those of us who love the old Mae West joke, "Is that a pistol in your pocket or are you just glad to see me?" could not help but speculate when we read this testimony from Jean Harris:

"I pulled myself up on his knees, the gun was on his lap, I remember reaching for it. . . he dropped the phone and grabbed my waist like he was trying to tackle me. . . I felt the muzzle of the gun in my stomach, or what I thought was the muzzle."

Is it possible the good doctor contemplated, however briefly, a more amiable resolution of the evening's difficulties? I like to think so. Obviously, I am a hopeless Tarnower sympathizer. Recall the Harris testimony about when she burst into his bedroom and awakened him. He showed the same gentle forebearance men have always tried to display in such situations:

"He was not enthralled to see me. He said, 'Jesus, it's the middle of the night.' I said, 'It's not the middle of the night.' He was lying on one pillow with another one held to his stomach and he closed his eyes and didn't seem to want to wake up. . . . I finally said, 'I've brought you some flowers.' . . . I waited. . . then I said, 'Have you done any more work on your book?' He said, 'Jesus, Jean, shut up and go to bed.'"

There is much to sympathize with in Jean Harris. Even her snobbery is embarrassingly typical of middle- and upper-class Americans. Most of us would probably not be as bald about it as she was in her putdown of her "uneducated" rival who actually "socialized with servants." But practically every academic I have known would have taken the same trouble that Harris took to show she really knew Somerset Maugham didn't write *Magnificent Obsession*, a fact that was absolutely irrelevant to any issue in the case and the only purpose of

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which was to let the world know that Jean Harris knew.

The problem is that we are so busy showing how we are better than others—making better grades, getting more impressive titles, having better taste—that we lose the joy of concentrating on the doing of our work. This means that the quality of our work is likely to suffer. It also means that we are likely not to recognize real ability in people who don't have the right badges.

Bill Gulley, former head of the White House military office, tells a story about Alexander Haig that illustrates the problem. Haig, it seems, was worried about not getting a message from Kissinger, who was flying somewhere abroad. Gulley checked and reported that the delay was caused by an atmospheric condition:

"He asked me where I'd gotten my information, and I told him from a sergeant at the White House Communications Agency. Haig just fell apart. He said 'Do you mean to tell me that in this situation, when Henry Kissinger's plane may be down at sea, when the President of the United States is personally concerned about his welfare, that you are relying on the word of some sergeant? Do you seriously expect me to go to the President and tell him some *sergeant* says it's an atmospheric condition and not to worry?'

"At that point Haig wasn't the only one mad. I said, 'General, just back off a minute. This sergeant is an experienced man. He's been handling aircraft communications for the White House Communications Agency for eight or nine years, so just cool it. Calm down. This guy knows what he's doing, and I'd sure as hell rather talk to a sergeant who knows his job than to some colonel who's going to have to take the time to call the sergeant so that he can tell me so that I can tell you so that you can tell the President.'

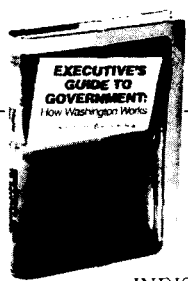
"With that, Haig hung up on me."

Gulley's new book, *Breaking Cover*, is the first runner-up for our Political Book Award. In terms of helping us understand the culture of the White House, few books have done more. Unfortunately, it is awkwardly presented, with long first-person quotes from Gulley alternating with third-person passages by his coauthor, Mary Ellen Reese. . . .

As the nation begins to recover from the celebration of the hostages' return, several people have pointed out the irony of our failure to honor others who were equally or more deserving, from the veterans of Vietnam to the crew of the Pueblo, who were also held as hostages for over a year. Another forgotten group—34 men—died in the Israeli attack on the *Liberty* on June 8, 1967. The nation did not mourn these men because the Johnson administration played down the incident, fearing to disclose both the deliberateness of the attack and its own stupidity in letting the ship get too close to the shooting during the Six-Day War. If, by the way, you have any doubts as to the stupidity or the deliberateness, read *Assault on the Liberty* by James M. Ennes, Jr., who was serving as an officer on the ship at the time of the attack.

In fairness to the Pentagon it should be noted that 12 hours before the attack it did try to order the ship further away from the shore. The story of what happened to the order will be familiar to all students of Pearl Harbor. Here it is, as told by Ennes:

"Shortly before midnight by *Liberty*'s clocks (around the commuting hour in Washington), officers of the Joint Chiefs of Staff reacted to the Defense Department request by preparing a message that directed the ship to remain at least 20 miles from the United Arab Republic (for us, Gaza). At 41 minutes past midnight, ship's time, that message was delivered to the Army communication center that serves the Joint Chiefs in the



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Pentagon. It was addressed to the ship through three echelons of command, and was given a conservative 'priority' precedence.

"For the order to be executed, it would be necessary for the United States Commander-in-Chief Europe (USCINCEUR) to direct the Commander-in-Chief, United States Naval Forces, Europe (CINCUS-NAVEUR) to direct commander Sixth Fleet (COMSIXTHFLT) to direct *Liberty* to remain 20 miles from the UAR coast. Copies were sent to all concerned commanders, and a copy was addressed to USS *Liberty* for information.

"The message would not leave the JCS communication center for more than 14 hours. When it *was* finally transmitted, it was sent in error to the Naval Communication Station in the Philippines. It was never received by any commander until much too late to take action, and it was not received by *Liberty* at all.

"The Joint Chiefs of Staff remained concerned about *Liberty*. Shortly before 0200 ship's time, a JCS duty officer placed an overseas telephone call to the office of Admiral John S. McCain, Jr. at his headquarters in London. There he reached Lieutenant Edward Galavotti, a duty officer on the CINCUSNAVEUR staff, and directed Galavotti to recall the ship. Twenty miles was no longer sufficient: *Liberty* was to be moved at least 100 miles from the coast.

"'Show me a message,' McCain's deputy chief of staff demanded. 'We can't revise a ship's operating orders without a confirming message.'

"It took JCS a little more than an hour to draft a message telling USCINCEUR to tell CINCUSNAVEUR to tell COMSIXTHFLT to tell *Liberty* to remain at least 100 miles from the coast. Again, a copy was addressed to everyone concerned, including a copy addressed to USS *Liberty* for information.

"*Liberty* would never receive her copy of this message either. Both messages were processed by the same civilian clerk, and *Liberty*'s copy (like the earlier drafted but not yet transmitted stay-20-miles-from-the-UAR message) was misdirected to the Philippines Naval Communication Station. There it was correctly rerouted to the Pentagon for further relay to the Naval Communication Station in Morocco for delivery to *Liberty*. But the Pentagon, upon receiving the message for relay, *again* routed it to the wrong place, this time sending it to the National Security Agency communication center at Fort Meade, Maryland, where it was filed in error without action, never to be delivered. . . .

"JCS prepared still another message. This one—according to an officer who handled it during the night—was addressed to *Liberty* for action and to the commanders for information only. Like the others, this unusual, almost unprecedented message ordered [Captain] McGonagle to move far out to sea. To assure expeditious handling, it was given 'Immediate'

ORGANIZING AND STAFFING THE PRESIDENCY

by Bradley D. Nash,
with Milton S. Eisenhower, R. Gordon Hoxie and William C. Spragens
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precedence; like the earlier JCS message to USCINC-EUR, it was classified 'Top Secret' in spite of an innocuous text.

"Here was the ultimate fail-safe device. If all else failed, McGonagle could still be expected to get the word. But *Liberty* was not a subscriber to the 'Top Secret' message delivery system that the JCS communication center selected, and the message could not be delivered."...

Among the others yet to receive sufficient honor are the eight men who died in the rescue attempt last April. They've often been mentioned, but only one story I've seen captured the terrible pain of their loss. It was by UPI, datelined Corryton, Tennessee, and it read in part:

"Charles McMillan II, who was called Tom by his friends and family, was killed in the unsuccessful attempt by American military forces to free the 52 hostages April 24. His father, Charles McMillan, Jr., said neither he nor his wife has been able to cope with the tragedy.

"Since their son's death, McMillan, 48, has sold his interest in a furniture dealership and given up his job as a housing contractor. His wife, 49, is being fired from her job as a secretary at a machine company.

"'No one can understand what we feel,' his wife said. 'A part of us died. It is constantly with us—when we get up in the morning and when we go to bed at night. I just don't feel like doing anything.'

"Mrs. McMillan got her termination notice last week from Stowers Machinery Corp. of Knoxville because she couldn't do her job. 'She first was on a leave of absence, but when she went back, she couldn't perform,' McMillan said. 'We got the termination notice last week and with it goes her medical insurance and everything.'

"'We're just here and that's all. We've just been kind of lost really. Tom was the only child we had and our lives were wrapped up in his,' McMillan said."

Tom McMillan was killed by a helicopter that crashed into his transport during refueling at Desert One. Two helicopters had suffered mechanical failures during the rehearsals for the raids. More significantly, according to an article by Richard A. Gabriel in the *Canadian Defense Quarterly*, "The decision to refuel at Desert One with *all* aircraft engines running seems a foolish and needless risk to have run. The rationale for this decision—the fear that once shut down, some aircraft engines could not be restarted—was marginal, compared to the risks associated with refueling six helicopters in the dead of night with no lights with their engines running, creating localized dust storms and creating severe air turbulence through which the helicopters would have to fly in order to refuel. Moreover, the noise of ten aircraft with their engines running must have been deafening."...

Another problem of the military is the Navy's difficulty in retaining experienced, skilled enlisted men, who feel they are at sea too long for too little money. Two obvious solutions are to shorten the sea tours—which can be done some if not all the time—and increase the pay. We could pay experienced enlisted men much more if we used low-paid draftees to fill the beginning ranks. Also, we should eliminate the class distinctions that humiliate older enlisted men. Why should officers-only signs ever be permitted to bar men who are devoting their careers to the service of their country from any facility maintained on public property? Why should officers get better housing than veteran enlisted men? Why should they get better medical care than any enlisted man?...

Here's the latest in Washington graffiti, scrawled in spray paint on Key Bridge: "CREATE PUBLIC OPINION. GAIN POWER!" Doubtless the work of a militant faction within Hill & Knowlton.... By the way, did you hear that Robert Gray has left his job as head of Hill & Knowlton's Washington office to form his own public relations firm? There must be some frenzied gnashing of teeth at the upper levels of H & K. Why? Gray is a Republican, valuable to the firm during the Nixon-Ford years, but, during the Carter years, a depreciating asset who must have been kept on, in part at least, so that H & K could cash in when and if the Republicans returned to power. Now the Republicans have returned, and, by all that is right and just in this world, money should be rolling into H&K. But Gray has formed his own firm and that's where the money is going to go....

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A key test of whether Reagan is just an actor or is really serious about making the government work will come when he appoints the new head of the General Accounting Office. The term of the incumbent, Elmer Staats, expires this month, and while his job sounds dull, it is really, as we pointed out not long ago in an article by Thomas N. Bethell, "the second best job in Washington." Actually it is probably in a tie for that position, because, after the presidency, the most important jobs are those of who decides how the money is spent—the director of the Office of Management and Budget—and who decides how well the money was spent—the head of the GAO. . . . If your Reagan scorecard from last month's issue is handy, check off #3. Reagan has sold out to the senior citizens' lobby. On February 14, James Brady announced that the administration would not cut back on social security retirement funds and Medicare. This means that programs totaling $185 billion per year will not be cut at all. Brady explained that the decision was made in order to keep the administration's pledge not to deprive the really needy. Most of these funds, as a matter of fact, go not to the needy but to the middle and upper classes. So the "haves" win again. The elderly, who are an increasing proportion of our population, are fast becoming one of the two most powerful lobbies in the country. The other most-powerful lobby is government employees—who in their state, county, local, and federal varieties are also an increasing proportion of the population. You remember Reagan endorsed their twice-a-year COLA raises last fall. . . . I believe that two of the most important political struggles of the eighties will be between the forces of good sense and the lobbies of the old and of the civil service. And Reagan has already caved in to the wrong side in both. . . .

Another indication that Reagan is not the man for the eighties is his hiring freeze. What does a freeze do? Peter Kellner and Lord Crowther-Hunt found out when they looked at one tried by the British government in 1979: "Posts with a low turnover, such as senior administrative jobs, were reduced by less than those with high turnover, such as clerical jobs." There are, in other words, too few Indians left to serve too many chiefs. A second factor in the inefficiency of the freeze is that few government employees do absolutely nothing. They may spend two-thirds of the day reading the paper, extending the lunch hour, and attending pointless meetings, but one-third of the day will usually be spent doing something that needs doing. This means that if a job is not filled, something is not going to get done, which in turn means that the real way to reduce government employment is by consolidating jobs, turning three thirds into one job. But you have to know what you're doing to do that, and I'm afraid too many of the Reaganites don't know yet what they're doing.

—*Charles Peters*

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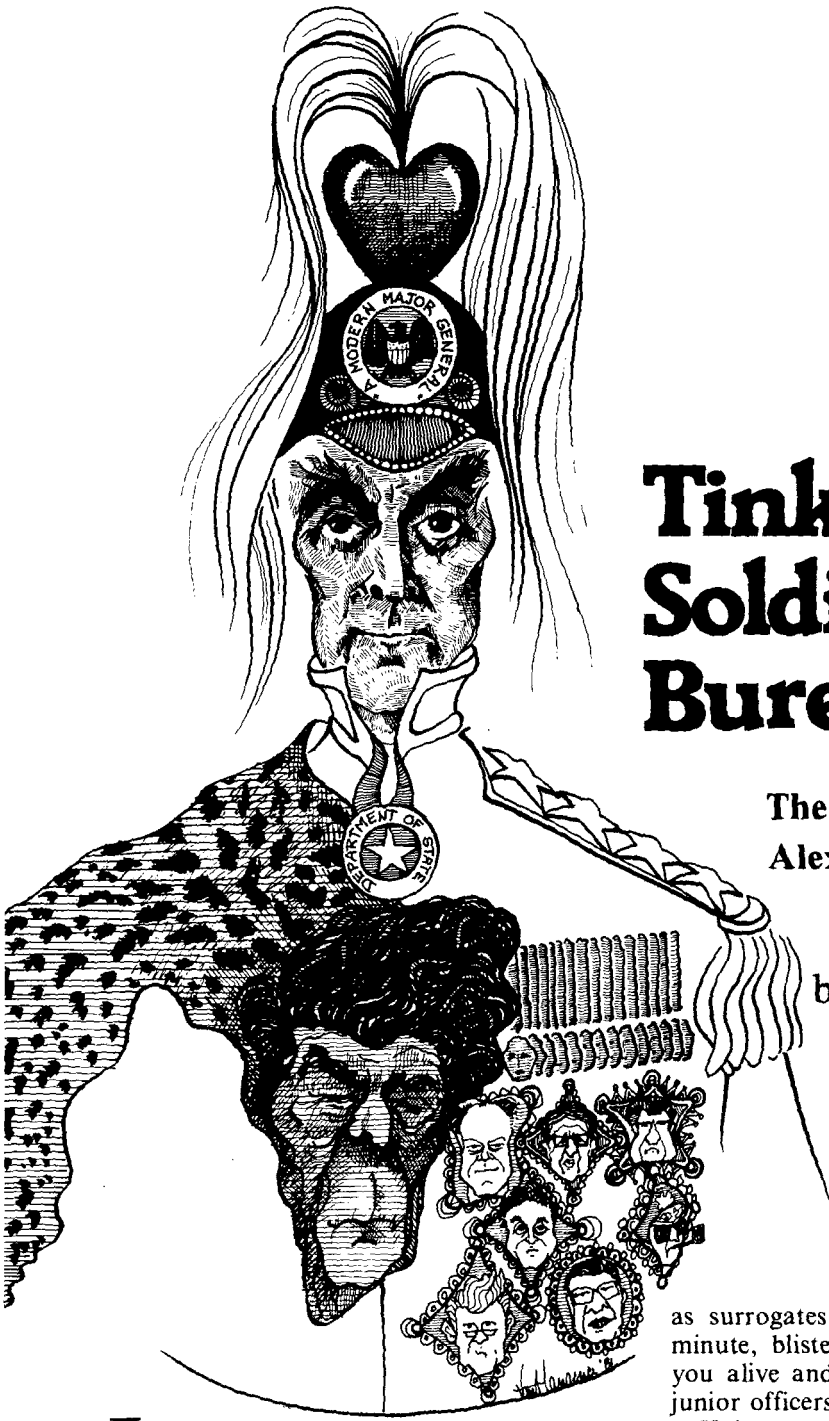

Tinker, Tailor, Soldier, Bureaucrat

The Apprenticeship of Alexander Haig

by Jonathan Alter

It was 1950 and Alexander Haig was a 25-year-old aide-de-camp to General Edward "Ned" Almond, commander of the X Corps in Hungnam, North Korea. Almond was an ill-tempered and demanding officer who had lost a son and a son-in-law to World War II. He had come to see his young aides, Haig among them, as surrogates for the fallen boys. Praise one minute, blistering attacks the next. "Why are you alive and they're dead?" he'd bark at his junior officers.

Haig was responsible for administering Almond's mess and headquarters billets, which included a tile bathtub that had taken some trouble to put together. In October, the Chinese crossed the Yalu and Almond's forces evacuated Hungnam. Suddenly Haig remembered the

Jonathan Alter is an editor of The Washington Monthly.

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bath, fretting, as he recalled it later, at the prospect of "a Chinese general taking a bath in General Almond's tile tub!" On his own initiative, Haig returned to the villa, braving enemy fire. There he lobbed a grenade into the tub, assuring that "no commissar would ever wallow in it." Then back again through more gunfire to rejoin his commanding officer.

There was a period when Al Haig enjoyed telling that story over and over in his engaging, slightly self-deprecating way. It helped take some of the pressure off working for Henry Kissinger, which Haig did during Richard Nixon's first term. This time the battle was at home, in the office, though the flak wasn't much lighter. Haig would be ducking into a car only to find Henry stopping him, polishing the single star on Haig's shoulder, and telling him in a patronizing little way that if he was "good" he'd get another one like it. Haig would smile, register it, then stare hard off into space for a moment, working his jaw and neck back and forth in a sharp, tight motion. One observer, watching the motion for the umpteenth time, said it was almost as if the man were trying to straighten his tie with no hands.

Haig could contend with Kissinger's jibes—and other slights—because he knew his skills as a subordinate were more sophisticated than the mere ability to put up with such treatment. The trick, as he learned under Almond, was to match indulgence with initiative. And initiative, as he learned through many intervening years of staff work, meant going the extra mile that made one indispensable. When that was accomplished, the real initiative could begin: the kind where you controlled people and paper well enough to put your own spin on the ball.

In that sense, the "loyal Al" tag is misleading, as are the battle stories and macho manner. Haig *looks* the parts assigned him, be it trusty toady, carrying out the orders of his commander-in-chief, or magnetic ramrod leader, holding the troops (or aides) together through force of will. But try *listening* instead of looking. Listen to the way he uses words in public, the way he frames his answers ("Not in the way you contexted it, Senator"). Now review his career and see if a different, stranger truth doesn't emerge. The curious thing is, beyond the sense of authority (standard for a West Pointer), Haig is not really cut from the traditional military mold at all; nor from that of the "soldier-statesman," who melds the virtues of military and political life as George C. Marshall did. Haig has wrapped himself in Marshall's mantle, and indeed he does fuse both worlds. But unlike Marshall, what he takes from each realm is the same: a bureaucratic mentality that undermines the values of both pursuits.

For the soldier-bureaucrat, the old military values—honor, duty—are important only to the extent that they serve the post-war "managerial" ethic. The ground rules for the new game are simple. What matters is mastering office politics and "nuancing" (Haig's verb) all the angles. When the angles don't point in your direction, redraw them. When your moral compass starts acting like a weather vane, refuse, as Haig did during his confirmation hearings, to make "value judgments," at least until you've consulted with your attorneys. It's this game, now so much a part of life in the U.S. government, that explains why Alexander Haig survives.

Playing His Bedroll

Al Haig didn't come from a military family. He grew up on the middle-class Manayunk Line in Philadelphia, the son of an attorney who died of cancer when Haig was ten. His mother was left with three kids and very little money. Haig went to Notre Dame for a year, then West Point. His brother Frank became a Jesuit priest and settled in at Loyola College in Baltimore (where Haig is now a trustee). His Catholic upbringing is important in understanding Haig's hierarchical mind. During his first press conference as secretary of state he described his role as that of the "vicar" of American foreign policy.

Haig's first way station en route to the vicarage was in Japan, where he served under Douglas MacArthur. Having graduated 214th out of 310 at West Point in 1947, he might not have expected to end up on MacArthur's small personal staff, but even then Haig had a certain job-placement knack. MacArthur's staff was composed of very senior generals and a few very junior infantry officers. Haig and Jonathan Ladd, later commander of the Green Berets, would fetch maps and draw up schedules—routine office work but heady business nonetheless for young men who had missed the war. When Chiang Kai-shek evacuated mainland China, Haig and Ladd got the chance to go down to Taiwan, where they met the Generalissimo himself. One of the principal officers at the American command post on Taiwan was General Alonzo Fox. In 1950, Haig married his daughter Patricia.

"There was nothing all that special about him, nothing brilliant—no shaft of light like that on

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MacArthur as a young man, or Marshall," Ladd recalls. "He was just a good, competent soldier who learned how to put up with extremely demanding officers." One story has it that when MacArthur's forces landed at Inchon it was Haig who waded ashore with the general's bedroll aloft, catching pneumonia in the process and finding, fittingly enough, that the great man had no intention of sleeping there.

With the end of the Korean War came the birth of a new kind of army. "Cincinnatus," a pseudonym for an army officer, writes in his recent book, *Self-Destruction*, that in the wake of the war "'Duty, honor, and country' (the West Point credo) was replaced by the need to be in the right place at the right time. Careerism, rather than dedication to one's men, was the way to get ahead." If careerism, as James Fallows says in his forthcoming book *National Defense*, is "the desire to *be* rather than to *do*," Haig typifies it. His ticket-punching began in the 1950s: back to West Point as a tactical officer, a stint at the National War College, a master's degree from Georgetown University.

Haig took the "Renaissance man" approach seriously. Most officers saw the War College year as a chance to play golf; to his credit, Haig studied. At Georgetown in 1962 he wrote a thesis in which he argued that presidents listened too often to the diplomatic perspective of the State Department, ignoring at their peril the "fact" that "the nation is confronted with a challenge which is essentially military in nature." Haig was a 36-year-old major then—much older than most students—and, according to one classmate, a trifle condescending. Earlier he had belittled those in his class who thought the Bay of Pigs operation should never have been attempted. Kennedy's real mistake, he argued, was foregoing a full-scale invasion of Cuba.

But it wasn't strongly held views which drove Haig; it was the Washington advancement game, which he began playing in earnest in 1963. That year Joseph Califano, then general counsel to the Army, plucked him out of the obscurity of staff officer work to come on board as military assistant to Califano's boss, Cyrus Vance, then secretary of the army. When Vance moved over to be deputy secretary of defense under Robert McNamara, Haig moved, too—one future secretary of state following another.

Once again, Haig showed a good sense of timing. This was the era of General Maxwell Taylor, the soldier-scholar, and young officers who had even tarried for a moment in the groves of academe were seen as some kind of magical new double threat. More important, the war in Vietnam was suddenly very big business. The dramatic escalation—500,000 soldiers and more—took place in just the years Haig was at the Pentagon, 1964-66. Haig was indefatigable; everyone said it. He was charged with conveying civilian views and plans to the Joint Chiefs of Staff—a courier of sorts. With so much going on, back and forth, that was a sensitive staff job. Like many jobs in the bureaucracy, it placed a premium on paper-routing skills, which Haig was quickly developing.

By the time Haig got to Vietnam for his requisite six-month stint—the only time he ever commanded troops—he was no ordinary colonel. When in May of 1967 Harry McPherson, a top Johnson aide, visited the III Corps Area, it was Haig who flew him around in a helicopter to view the newly cleared network of trenches built by the Viet Cong. Haig knew McPherson from the Pentagon; in fact he probably knew more hot-shot civilians than any colonel over there. So it was no big surprise when he didn't stay longer. With his Distinguished Service Cross in hand he headed back to Washington.

Self-Service Escalator

The only problem was, the Pentagon wasn't the right place anymore. By the summer of 1967 McNamara had soured on the war and the skeptics were in ascendancy. As Haig returned, the final touches were being put on the secret history of the war, which was later known as the Pentagon Papers. Haig found himself assigned to one of the committees making last-minute decisions about what to include. It was one of those impossible bureaucratic positions—whatever move he made was suddenly fraught with problems and potential enemies. Policy-makers were all over one another, splitting into camps, snappish. All of a sudden the Pentagon was no place for someone like Al Haig; the escalator was temporarily out of service. So he begged off and got out, escaping to West Point in time for "Beast Barracks," the orientation session for plebes.

Haig's year and a half at West Point, first as a regimental commander and later as deputy commandant, were described in 1973 when Lucian K. Truscott IV, a former cadet who came from an old and distinguished military family, wrote an article in the *Village Voice* attacking Haig's petty bureaucratic mentality.

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Attention to detail is a hallmark of life at West Point, but Haig went well beyond the norm. The first action he took upon joining the Third Regiment was to issue an order that every cadet in the regiment would march with his fingers cocked squarely at the second knuckle, thumb running stiffly along the index finger pointing "like an arrow" to the ground, elbows rigidly locked. Like the civil servant who circulates a memo on the proper color-coding of briefing books, Haig saw the new hand position as a way of exerting control through minutiae—"a way of putting my signature on the regiment," he later commented.

Truscott recalls how several alleged pot-smokers in the regiment were investigated and punished unofficially because Haig knew an official disciplinary report would have to be routed through the Department of the Army, which would alert the Pentagon to the existence of Third Regiment pot-heads. No need for a red-flag on an otherwise stellar record of service. If you have that kind of problem among your cadets, why advertise it?

Haig handled any sign of dissent with an equally bureaucratic sleight-of-hand. In his third year, Truscott and a friend decided to challenge the rule requiring mandatory chapel. That meant going to the army's inspector general, a right every cadet was reminded of by a notice attached to all Academy bulletin boards. But first they were sent to see Colonel Haig, who told them they shouldn't fight it—the regulation was bigger than they were. If they didn't like it, they should resign.

Truscott and three other cadets persisted, this time challenging mandatory chapel "donations." By the following fall, Haig was deputy commandant, and in a style of office politics he was to employ to great effect in later years, he asked to see Truscott alone, preventing any substantiation:

"I'm going to do you another favor, Mr. T. See this green memo-routing slip here? I'm going to attach this green memo-routing slip to these requests and fire them back on down to you in H-3 first thing tomorrow morning, that's what I'm going to do. Do you a favor. What do you think of that?" Haig said.

Truscott didn't think much of it, and asked that the requests go through channels as required by regulation. Haig didn't want that. His reply was ominous:

"If these go up, Mr. T., you'll leave the Commandant with no recourse but to eliminate you, all four of you, from the Academy. Do you understand that? You're boxing him in, Mr. T., leaving him no choice."

In mid-November, Truscott was informed that proceedings were underway to eliminate him from the Academy on "aptitude" grounds, though he ranked in the middle of the class on that score. Not long after, a federal appeals court banned mandatory chapel at all four service academies, citing the First Amendment. The Supreme Court unanimously refused to review the decision. According to Truscott, General Bernard Rogers, commandant at West Point in 1967-69 and now Haig's successor at NATO, later told him that he knew nothing about his deputy's activities. He was "flabbergasted" to hear what Haig had kept from him. Haig had always appeared to be so "completely loyal."

The Butterfly Spy

Haig's discomfort with dissenters and their threat to his hierarchical mind continued in later years. According to Garry Wills, he repeatedly complained to his brother the priest about Daniel Berrigan. Why didn't the Jesuits throw him out? The army would have, Haig said. Recently Haig gave rein to similar feelings in an interview with a French newspaper when he complained of a "Jane Fonda on every doorstep" in the U.S.

That comment was made, as Wills points out, in the "authentic voice of Nixon paranoia," which Haig began to learn and master during 1969. As a special assistant extraordinaire, Haig came to his National Security Council staff post well prepared (and well recommended—by Califano). But what helped him most were the specific players involved. Kissinger needed someone with strong links to the Pentagon, where all the NSC eggheads were deeply mistrusted. More important, around the White House he needed Haig's hawkish words and his butch look, which appealed to Haldeman and the rest of the German Mafia. All of this kept Kissinger well enough buffered to spend time working his charms on the president.

Haig was "Stalin to Henry's Lenin," as former NSC staffer Roger Morris put it in his book, *Uncertain Greatness*. "If Kissinger was the theorist and politician of his coup—its outer symbol—Haig was its inner face. He was the organizer, the not-as-bright but painstaking administrator with time and attention for the details Kissinger spurned." Early on in the Nixon administration, that meant arranging

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"under orders" the wiretapping of 17 colleagues and journalists in a futile attempt to find leakers. To this day, Haig will not pass judgment on the morality of the practice, stressing in his confirmation hearings that the taps were legal at the time.

In earlier testimony before a congressional committee investigating the taps, Haig floated an old rumor to explain why the taps lasted so long and included so many: "In one instance, one of the people [under surveillance] was a very prime suspect for espionage activity." Former *New York Times* reporter David Wise writes in his book *American Police State* that the man to whom Haig referred was Henry Brandon, a relatively conservative columnist for *The London Sunday Times*. Brandon is a staid, conventional member of the Washington journalistic establishment who boasts impeccable social credentials. As a pure piece of detective work, going after Brandon may have made sense. Because he seemed the last person in the world to be a foreign agent, Sherlock Holmes would have tagged him immediately as the prime suspect. In fact the source of "leaked" information in Brandon's column was more than likely Kissinger himself. At any rate all is forgiven; Haig will now see quite a bit of Brandon and his wife Muffie on the Washington party circuit. Mrs. Brandon has been named White House social secretary.

For the secretary of state, anyway, that won't be awkward. Month after month in 1969 Haig would come to the office and shake his head sympathetically when various NSC staffers complained of funny noises on their telephones. Then he would go over to the FBI—he made several trips—to check the wiretap logs provided by J. Edgar Hoover's aide William Sullivan. On one such visit in 1969 Kissinger came along, according to a memo Sullivan wrote at the time, and after finishing the transcripts said, "It is clear I do not have anybody in my office that I can trust except Colonel Haig here." Both Kissinger and Haig developed severe amnesia on the subject of the FBI visits during later testimony, but there can be no doubt Haig made a mental note of Kissinger's comments at the time. His stock was up. Five months after coming to the White House he had climbed over the rest of the NSC staff; four months after that he was named Kissinger's official deputy.

By 1970, Haig was getting his fingers into everything that touched American foreign policy, including, though he'd later deny it, planning for the overthrow of Salvador Allende in Chile. At NSC meetings he sometimes played class cut-up, pounding an imaginary drumbeat on the table when an African issue arose. But he also had a deadly serious side. In the spring, when several staff members resigned in opposition to the ill-fated invasion of Cambodia, Haig was outraged. He told William Watts, one of those who quit, that Watts simply couldn't do it—"You've just had an order from your Commander-in-Chief. . . ." "Fuck you, Al," Watts replied. "I just did." On Cambodia, as at West Point, Haig was the best lightning rod his boss ever had.

What Kissinger didn't know then—he would find out later—was that Haig's loyalty went only as far as it would carry him. For the first few years of the administration, that meant utter devotion to the rapidly ascending boss. Haig could not possibly have ordered any taps on his own; he could not, as William Safire put it, "have gone to the bathroom without raising his hand and asking Henry." But by 1972 or so, that was changing. At the same time that he was working overtime to bail Kissinger out of a paperwork jam, Haig saw to it that he cultivated Haldeman—he was, as one former colleague put it, "Kissinger's man in Haldeman's office and Haldeman's man in Kissinger's office." The latter often meant channeling the chief of staff interesting cable traffic, or cluing him in, according to Bill Gulley, then head of the White House Military Office, on all the best White House gossip, including which New York celebrities Kissinger was sleeping with. One of Haig's lesser-known bureaucratic skills is that of office gossip. In fact, one reason NSC staffer Morton Halperin quickly became persona non grata in the West Wing basement was that the wiretap transcripts showed him calling Haig, well, "*a God-damned gossip*."

After a while, Haig began playing the same games with Nixon himself, working in subtle ways on the president's insecurity complex about Kissinger. (Who was the foreign policy tutor? Who the pupil?) Haig would be working late; as usual he beat the competition by sheer stamina. Nixon would drop in on one of his nocturnal wanderings, and they would talk. During the day that translated into a new ability to speak and write with more authority, especially when Kissinger was away on one of his many foreign trips. "Haig would give Kissinger's messages a tilt. He did a little editing here and a little rephrasing there, making a suggestion that this or that might fall in line better with the President's view of what should be done than

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Kissinger's," Gulley reports in his book *Breaking Cover*, a judgment validated by others on Kissinger's staff at the time.

In later years, when Haig was chief of staff, Kissinger and Haig were openly antagonistic, squabbling over such petty issues as which one would have the room closest to Nixon on trips abroad. But when Haig was Kissinger's deputy, his enormous skill lay in backing his boss and undermining him at the same time. One former NSC aide recalls a particular lunch with Haig in the White House mess. Kissinger had asked Haig to talk the aide out of leaving the staff. The hard-sell to stay at the NSC was the whole point of the lunch, and Haig said so. But soon the aide found Haig telling story after story about how bad it was working in the office, how strange Kissinger was. "He was very subtly working on all the feelings I had about leaving, all my embers of resentment," the aide recalls. "He knew what *he* wanted from me, and he meant to get it." He did. The aide resigned.

What makes Haig so powerful, according to many accounts, is that uncanny ability to seem your friend and enemy simultaneously—like the popular kid at school who confides one thing to you and another to your buddy, leaving both of you expectant and insecure. The wink and elbow aren't usually sincere ("I'll do you a favor, Mr. T."), but it's hard to know that at the time. Haldeman, for instance, thought he was on friendly terms with Haig, having recommended him to be his successor as chief of staff. But when he tried to call Nixon during the final days to plead for a pardon, he found he couldn't get through. Trusty Al wasn't telling his friend Bob any more dirty jokes. He was telling him to get lost.

The Final Daze

Watergate, strangely enough, is seen by many as Alexander Haig's finest hour—a positive reason to support his nomination for secretary of state. That line has been peddled far and wide by Barry Goldwater among others, and lent credibility by Woodward and Bernstein's *The Final Days*, which suggests Haig not only convinced Nixon to resign "for the good of the country," but possibly even prevented the president from committing suicide.

As you may have guessed, Haig, the super leak-plugger of earlier years, was a principal source for Woodward and Bernstein's seminal work, as well as Theodore White's *Breach of Faith*. More important, as Watergate buffs know, everybody—Charles Wiggins, Pat Buchanan—*everybody* believed Nixon had to resign after the existence of the June 23rd "smoking gun" tape was revealed. In fact, Fred Buzhardt and Leonard Garment, the president's lawyers, wanted Nixon to resign six months earlier, but Haig wouldn't let them in to see their client. The truth is, Nixon was confronted with a fait accompli that was *not* of Haig's making. It was the smoking gun, not Haig, that made Nixon resign. If Haig had succeeded in convincing Nixon to resign a year earlier, that might have meant something. As it happened, all he did was use his close personal relationship with the president to make the inevitable go down easier, hardly the stuff of great secretaries of state.

Haig, it should be noted, told a lie about Watergate during his confirmation hearings in January. It was a little one that went largely unreported in the press—no perjury—but it's revealing nonetheless. In his prepared statement, Haig said that he spent "90 percent of [his] time" on matters other than Watergate while working as chief of staff.

This can't possibly be true. White House logs obtained by *The Washington Post* show he spent more time on the subject even than Nixon, who ate, slept and drank his own defense. In a way, it's a good thing Haig didn't do much else but worry about Watergate. When he did handle other matters, like filling vacant jobs in the government while Nixon was preoccupied, the results were men like James Schlesinger. Essentially it was Haig who appointed Schlesinger as secretary of defense, one of several Cabinet departments Schlesinger would leave in shambles.

But what was Haig's point in saying he didn't spend much time on Watergate? Only after three days of confirmation hearings was it clear: *this was the closest Alexander Haig would ever come to admitting there was anything unseemly about that whole chapter of American life*. Until he was dragged out of the hearing room by his attorney and forced to approve a stilted statement of mild regret, Haig would not pass judgment on Watergate, allowing only that there had been "honest differences between honest men" and "abuses on both sides." The other "side" to which he referred were the forces of what he called the "McCarthy era" (that's Joe, not Gene)—irresponsible critics who opposed the president. Haig obviously still sees Watergate as merely a political problem, much as Nixon did when in his resignation speech he said he was leaving office because he "no longer had a strong enough

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political base in the Senate." That might have been passable for a president on the night he was forced to resign, but for the top aide, six and a half years later, when every other Watergate figure except Gordon Liddy has at least expressed some remorse?

At the risk of boring all of you who are "weary of Watergate," as Haig's defenders put it, it seems worthwhile to whip through—it'll just take a second—a few of the highlights of Haig's Watergate performance.

In the fall of 1972, Nixon promoted Haig from two stars to four stars over 240 other senior officers. Haig left the White House briefly to become vice-chief of staff of the army, but in May of 1973 Nixon called him back. Haldeman and Ehrlichman had resigned in disgrace and a new chief of staff was required to hold down the fort. Haig took the job, and over the next year and a half used all of his best bureaucratic abilities to stall the inevitable demise of the Nixon presidency.

Sometimes Haig was downright boastful about those abilities. The Agnew case is a good example: "By July [1973], Elliot [Richardson, then attorney general] told us it was an open-and-shut case," Haig said to Teddy White. "We couldn't accept that; we told him to go reassess." When the stalling could go on no longer, Haig and the attorneys reached back and drew on the richness of their experience in government: "Arranging that cop-out [Agnew's no-contest plea, which kept him out of jail] was one of the greatest feats of bureaucratic skill in the history of the art," Haig said—with the satisfaction of someone who knows of what he speaks.

Not long after Agnew's resignation came the infamous "Saturday Night Massacre." Here, many people believe Haig was just carrying out Nixon's instructions. "Your Commander-in-Chief has given you an order" (to fire Archibald Cox), he told William Ruckelshaus in a line he must have remembered from his Cambodia cameo. In truth, Haig was at least partially responsible for that order, which is often believed to be among the darkest episodes of Watergate. Five top White House aides and administration officials, including Haig, had gathered the previous week, and all except Richardson agreed Cox would have to go. Nixon, who wasn't at the meeting, turned out to feel the same way, and gave the order.

Haig coined the phrase "fire storm" to describe what happened next—a burst of outrage the like of which the nation had never seen. Many of the newspapers now praising Haig were at that time already calling for Nixon to resign because of the affair. The resignations of Richardson and Ruckelshaus and the firing of Cox had touched it all off, but what really alarmed many people was the sealing of the special prosecutor's office by FBI agents. That seemed like Gestapo tactics. The following day Haig held a press conference at which he announced that he had personally ordered the sealing off because office workers had been seen leaving the premises with papers under their arms.

Haig didn't talk much to the press on-the-record, but when he did, it was effective. Somehow, his West Point honor code made him seem more credible than others in the administration. Capitalizing on that reputation, Haig and Nixon unleashed "Operation Candor," a program designed to convince congressional Republicans that the White House was coming clean. On one occasion, Haig strongly implied to Senate Republicans that Richardson had lied about his role in the Cox affair; on another, he told GOP leaders that the soon-to-be-infamous March 21st tape, which he had heard, would prove to be "exculpatory." He also insisted to Leon Jaworski that the burglary of the office of Daniel Ellsberg's psychiatrist was justified on national security grounds.

Had enough? We haven't even gotten yet to the Howard Hughes connection, the 18½-minute gap, or his role in the Nixon pardon. The point is, you don't need a smoking gun to know Alexander Haig was in up to his ears. The worst thing about the June 23rd tape that drove Richard Nixon from office was that it created a new standard for judging guilt in high places in this country. In the smoking gun era in which we live, if you haven't committed an indictable offense and been stupid enough to have it taped or photographed, you are, ipso facto, *clean*—and eligible for promotion. Given that, it's a good thing Senate liberals were unsuccessful in securing subpoenas for still-secret Nixon tapes which might have implicated Haig. If the tapes had not ended up implicating him (and he was probably shrewd enough to avoid saying anything indictable), Haig would now be a candidate for Caesar's wife.

Picking His Perfume

Many people who watched Haig during Watergate, even friends, describe his faults during those years in the same terms. They say he put the survival of the president over the concept of the presidency. That's not quite so. In a way, Haig's loyalty was neither to the man who happened to

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occupy the office nor, certainly, to the historic subordination of the presidency to the nation's laws. Haig's real loyalty—nay, infatuation—was to the hierarchy and how it could help him. This is best reflected by a story from the Ford administration. Haig, having virtually run the presidency during Nixon's final days, felt he had long since passed Gerald Ford in the pecking order. The fact that Ford was now president didn't matter. Here's Robert Hartmann, Ford's principal aide, describing the short time Haig remained in the White House in 1974 before taking the NATO post:

"I was in the Oval Office when Haig arrived about 8:30 bearing a fat black briefing book.... For an hour or so Haig displayed elaborate organizational charts and paper flow diagrams. Nothing was very clear except that nobody could possibly understand the system except Haig.

"Ford said he'd like to have the book, which broke down the White House staff positions and listed the current occupants of each position, tenure, title and pay. He wanted to take it home to study. I said I'd like a copy, too. Incredibly, the general in mufti told the president of the United States he couldn't have it. It was Haig's only working copy!"

Washington likes flow charts and established procedure almost as much as Haig does, and that helps explain part of his recent success. But more important, a certain segment of Washington likes people who know how to play their game. Thus it was a master stroke for Haig to bring Joe Califano with him to his confirmation hearings as his attorney. Califano is a Democrat—a *liberal* Democrat with ties to the rest of Washington's liberal Democratic establishment. Those people like seeing their friend Joe Califano back in the arena after his firing by Carter as HEW secretary. And they like—or give the benefit of the doubt to—anyone smart enough to know what kinds of gestures impress them. So for Haig, that sewed it up. He was a winner. He knew whom to appease and how to do it, even if he had once worked for a president who didn't know those things and wouldn't play the game. Such an aroma of respectability can overcome any historical stench.

Likewise the scent of impending power. Most of those abused by Haig over the years will not come forward now for fear of losing access to the crumbs of power or influence still available to them. In some cases, old foes have even gone so far as to sing his praises. Winston Lord, Kissinger's old aide at the NSC and State Department, once told a friend that the nicest thing about moving over to Foggy Bottom when Kissinger became secretary was that he was "all the way across town from Al Haig." Depressingly, it was no big surprise in January of this year when Lord, now president of the Council on Foreign Relations, wrote a letter to the chairman of the Senate Foreign Relations Committee recommending Haig's nomination in the strongest terms.

All of this suggests that what Haig's acceptability really represents is the triumph of habit over experience—the habit being our willingness to settle for men who look a certain part and play a certain role in a bureaucratized American society. That society is a place where loyalty means insulation of the boss and suspension of critical judgment, where getting ahead is more important than what to do when you get there, where whistle-blowing gets punished and ass-covering rewarded, where slick and safe beat sensitive and sorry.

Haig likes to pay lip service to the other, nobler ethic. During his confirmation hearings he was asked about the idea of resignation from office on matters of principle. In a belated effort to take a leaf from the book of his old boss, Cy Vance, Haig claimed he resigned his post as NATO Commander in protest against Carter administration policies. That wasn't quite true. Haig certainly opposed those policies in private; he probably enjoyed nothing so much as an evening spent exchanging Jimmy Carter jokes with his friend Helmut Schmidt (stroking a friendship which was, by the way, later elevated into one of Haig's qualifications for high office). But at the time of Haig's resignation from NATO, there was no letter of protest to Carter, no press conference to announce Haig's differences. In fact, can anyone even remember Haig breathing a word about "protest" at the time? The real reason for his resignation was more personal: Haig wanted to run for president of the United States.

Like Nixon's other favorite presidential candidate, John Connally, Haig's presidential bid flopped. Neither of them had any political base—Haig was forced to bow out before even entering any primaries. But Reagan has given him a new platform from which to seek greater hierarchical heights. The organizational chart contains one more box above secretary of state. The vicar is on the move again. ■

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MY REAL ESTATE SECRETS Part I

How to Make the Buzzard Bonanza, Kuwait Connection and Laszlo Low-Down Work for You!

by GREGG EASTERBROOK

Gold...silver...diamonds...pork belly futures... down through the ages, these things have fascinated men and women in search of their FORTUNES. But as attractive as they appear, smart investors know the REAL MONEY is in REAL ESTATE.

Yet every conventional real estate deal contains an element of RISK...there are unpredictable MARKET FORCES...you must SPECULATE. If you guess wrong, you lose out on the GOOD THINGS IN LIFE...things like LARGE, INEFFICIENT AUTOMOBILES and CLOTHES MADE FROM ANIMALS. Your DREAMS are in jeopardy... unless you know MY SECRET.

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Gregg Easterbrook is a self-made millionaire who is revealing his secrets solely because he wishes to help others realize their full potential in life. He is also an editor of The Washington Monthly.

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It's easy to get lost in Washington, and the easiest place is around the Mall, where partial rotaries and unmarked ramps give driving a distinct Alice-in-Wonderland quality. Many of the unmarked ramps lead to the Virginia bridges, and even native Washingtonians fear these roads. The attrition rate for tourists is especially high. Like medieval sailors falling off the edge of the world, tourists are constantly falling off the Mall into Virginia.

But an even nastier place to get lost is along the wharfs of the Anacostia River south of Capitol Hill. You might end up all the way down at Buzzard Point. There you will find lifeless alleyways, sad old tenements, an electric generating station, and the dust clouds of a gravel plant. It looks like a scene from *On the Waterfront* until you notice...a high-rise office building. Right on the wharf off a buckling unpaved road stands a nine-story glass-walled wonder housing parts of the FBI and the Department of Defense. The building itself is, charmingly, also named Buzzard Point. It is owned by Southwest Joint Venture, which built it for the government on a "lease-construct" basis, and it costs $2.7 million a year to rent. But as we shall see, a bizarre location is the least of the Buzzard Point building's problems. Nearly everything is wrong with it, and that might also be said of the federal leasing program.

In early 1975, the Securities and Exchange Commission asked the General Services Administration, which manages federal office space, for a new headquarters building. Filling requests for office space is an important job at GSA. While we like to think of "federal buildings" as monuments and museums, almost all of the government's real estate holdings are in plain old office space. Of the 230 million square feet of space the government owns or leases, only 50 million square feet is "special purpose"—monuments, laboratories, and ceremonial buildings like the Capitol. New "special purpose" buildings are rare but demand for new office space is unending. So for developers and bureaucrats alike, offices are where the action is.

Government can acquire office space in three ways. First, it can rent on the open market, shopping around for a floor here and a floor there like any other prospective tenant. Open-market renting is clearly the best way to fill temporary needs. Yet to Washington, the process has fatal flaws. First, it's hard to get an entire building on the open market. Government is strongly prejudiced towards the prestige (and in some cases logistical convenience) of commanding entire buildings. Second, open-market leases are for short terms, generally one or two years, and that means running the risk government workers will be thrown out if the landlord can find a higher-paying tenant. But most of all government has few "temporary" requirements. Agencies never shrink, they only grow more slowly at some times than at other times.

Government's second option is to build buildings itself. That means having the Treasury put up the money, having GSA function like the general contractor, and having the structure publicly owned. This approach has some advantages although, as will be explained later, not as many as it should.

The third option is "lease-construction." A private developer is commissioned to build an office to specifications. Government then leases the building back on an exclusive basis. The developer puts up the capital and owns the building; government guarantees his rental income.

This arrangement was devised during the Eisenhower administration. Veteran GSA officials say Eisenhower issued orders to find any and every way to keep the budget down, maintaining the appearance of a fiscally conservative government with tight purse-strings. Lease-construction fit that bill perfectly.

When Washington builds a building itself, the total construction costs must be appropriated in the budget for whatever year the building is commissioned. Buzzard Point cost $11 million. If it had been a federal construction project, an expense of $11 million would have been included in the fiscal 1977 budget.

When Washington enters a lease-construction agreement, however, only *that year's rent* is listed on the budget. The government has been paying Buzzard Point's annual rent of $2.7 million every year since 1976—so $13.5 million, more than the building cost to build, has already been spent. The Buzzard Point lease expires this summer. GSA officials say it is all but certain to be renewed (and at a higher rate). If the lease is renewed through the expected 20-year life of the building, total rents (including numerous escalators) might reach $75 million or more—for an $11 million building.

But in any given year, the budgeted expense for rent will always be less than the $11 million that would have had to be listed if the building were government-built. To the Washington establishment this is a "victory" because it keeps

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the office budget grand total—the figure newspaper editorialists jump through hoops over—artificially low. The fact that the government is contractually obligated to at least five years (and often 20 years) of rent is not listed anywhere. The General Accounting Office estimates that the government's unavoidable contractual obligation for leased office space is always at least four times the official rent appropriation.

Congress, the president, and the Office of Management and Budget love this little white lie to the taxpayers so much that leasing of federal office space continues to zoom. The amount of leased space has doubled in the last 15 years, from 46 million square feet to 94 million square feet. Lease payments now consume more than half of the total amount Washington spends on housing its employees, expenditures having risen from $131 million 15 years ago to $680 million today. The total is expected to reach $1 billion in two years.

Meanwhile federal building has nearly come to a halt—only about $35 million for direct construction was in last year's budget. Washington, that big, bloated monster supposedly swallowing everything in sight, is getting out of the business of owning buildings. Because at the end of a lease, "federal" buildings still belong to their developer. All the government has, as Senator Daniel Moynihan is fond of saying, is a "drawerful of rent receipts."

There are, it should be said, a number of classic private-sector efficiencies involved in leasing privately owned buildings; in some respects private office space looks pretty good. Unfortunately none of those efficiencies were involved at Buzzard Point.

The Laszlo Bidder

After GSA got SEC's 1975 request for a new headquarters, it quickly decided on the lease-construct avenue. The Public Works committees of the House and Senate then authorized a 380,000-square-foot building at a maximum annual rent of $2.8 million. Three developers bid the job.

Southwest Joint Venture won with the lowest bid, asking $7 a square foot for an annual rent of $2.5 million (later upped to $2.7 million). Southwest is run by a Dr. Laszlo Tauber, one of the Washington area's biggest federal landlords. Besides the low bid, Tauber had a number of advantages over other developers. One was that he already had development permits for the property, which he had purchased options on before the bidding began.

In Washington so many agencies, commissions, and boards must grant approval for construction that building permits are often more prized than money. This is compounded by Washington's cornice law, the nation's toughest. No building can rise above 15 stories, the height of the Capitol dome. The cornice law eliminates skyscrapers, significantly increasing the total *number* of buildings needed. "Where in other cities you would need to acquire and get permits for one piece of property, in Washington you need two or three sites," said a local developer. "That means going through the same regulatory bullshit two or three times. Washington construction has the highest proportion of lawyers to bricklayers of any city in the county."

Still there was this little drawback to Tauber's plan—the location of Buzzard Point. Technically the wharf is only two miles from the Capitol, but there are railyards and battle-zone ghettos within that radius too. The next-lowest bidder wanted an extra 15 cents per square foot, but offered to build in a convenient downtown location where land is many times more expensive—in all a far better deal for the government.

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When SEC realized its grand headquarters would be a long, bumpy cab ride from the nearest French restaurant, the agency swung into action. It bent the ears of patrons on the Hill and friends in the press. The SEC showed considerable resourcefulness, enlisting, for example, the aid of the National Capital Planning Commission under the pretext that the few acres of industrial wharf should be preserved as "greenspace" to provide "public access to the waterfront." SEC documents railed against the location as unconstitutional, because it would hinder the agency's "ability to disclose information to the public."

But while the SEC has frightened billion-dollar corporations possessing global reach, it failed to impress the GSA. One reason, as Ronald Kessler, a *Washington Post* reporter, has documented, is that Tauber hired lawyer Arthur S. Lowell to lean on then-GSA administrator Arthur Sampson. Lowell was a propitious choice, since he was a personal friend of Sampson. Sampson saw to it that Tauber's deal went through, and just to show how deeply he admired the developer's business acumen, later went to work for Tauber.

Meanwhile SEC's defenders on the Hill were helpless to intervene. Office building contracts never come to the House and Senate floors. Money for buildings is appropriated by the Public Works committees, acting alone. You may seem to recall reading something in a civics text about the checks-and-balances system and how nothing could escape the purview of the greatest deliberative body in the world. Buildings are an extraordinary exception to the normal constitutional procedures. There is a floor vote to determine the overall total that can be spent on office space, but what buildings the money goes to and where is up to the Public Works committees. So GSA kept those committees happy, and that was enough to protect Buzzard Point.

When the building was finished in 1976, it had two problems. First, its quality was only slightly on the plus side of a Quonset hut. Ceilings were head-scraping low and sagging; walls vibrated like tambourines; there was no landscaping anywhere (nor any provision for it). Proponents of organic architecture might say Buzzard Point merged with its environment by being the world's first pre-dilapidated building.

The second problem was that the SEC refused to move in.

In theory, the SEC could have been ordered to move. But try finding enough sheriff's marshalls to evict 1,300 people. After SEC refused to have anything to do with Buzzard Point (it later petitioned Congress for authority to make its own office space arrangements), GSA tried to persuade the Agency for International Development and the Treasury Department to move in. Both refused. GSA then tried to order its own personnel into the building, and even they refused.

Meanwhile, government was paying $7,500 a day to rent an empty building. Tauber had a contract, right? The building was ready for beneficial occupancy, right? It wasn't Tauber's fault everybody thought the place had cooties.

Since lease-construction offices are built exclusively for federal use, government is a captive tenant. The immediate problem, as Rowland Freeman, Carter's last GSA administrator, has noted, is that developers can get away with grade-Z service. The tenant can't leave, so what do they have to lose by not changing lightbulbs or fixing air conditioners? But more important is that government must pay whether it actually occupies the space or not.

A particularly perverse law prohibits government from subletting. So when space isn't needed, it must sit idle, with taxpayers taking a bath on the rent. This is why you don't find federal offices and commercial offices interspersed with each other in government buildings. Subleasing idle space would make a lot of sense, since it would replace a pointless expense with a source of income. But, so goes the line, having private offices around would detract from the dignity of the federal enterprise. After all, program planning analysts would be dangerously close to those tacky, temporal types who actually make and do things.

Besides offering the developer 100-percent occupancy and a guaranteed profit from rental income, the captive-tenant arrangement helps him gain special breaks in financing. Developers get loans for lease-construct contracts on the basis of their guaranteed occupancy and the government's impeccable credit. Since the loans are risk-free, banks offer preferential interest rates; this enhances the developers' profits in a way not immediately apparent when looking at square-foot charges. Again, Buzzard Point is a good example.

Southwest Joint Venture is a syndicate of 34 investors, including Tauber, Lowell, and 20 doctors (three of them, company records show, bearing the first name "Laszlo"). The investors pledged $2.1 million in capital and $4 million in loans; the balance of the $11 million construction

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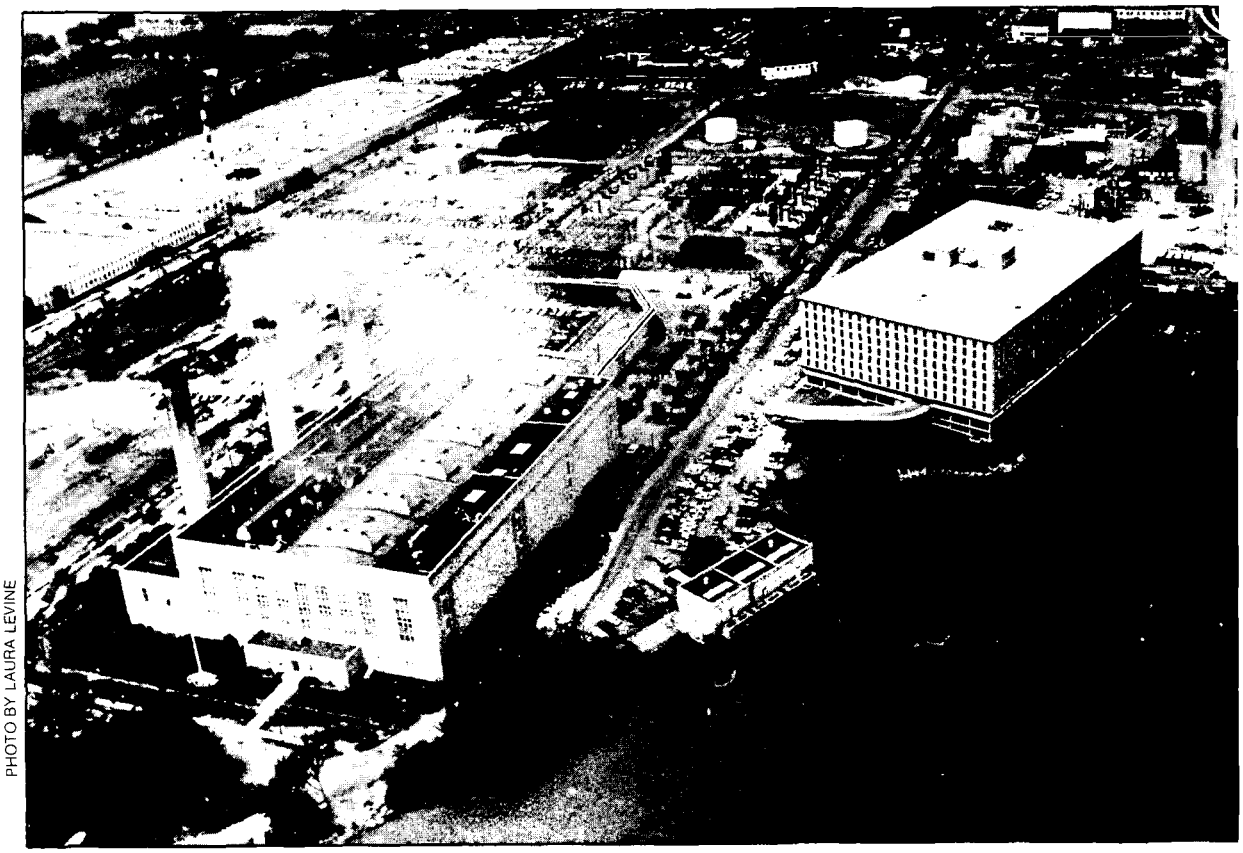

PHOTO BY LAURA LEVINE

At right, the Buzzard Point office building.

cost came from banks. The bank loans, Tauber later explained in court documents, were obtained using the guaranteed profit from the lease as collateral. In 1977 Buzzard Point's investors made a profit of $530,000, Kessler reported. That equates to an annual return on capital of 25 percent—guaranteed.

A Slight Alteration

Buzzard Point sat vacant for two years, as $5.4 million in rent was wasted. GSA finally persuaded the FBI and Department of Defense, two agencies that specialize in people who do as instructed, to order personnel into the building. Just as soon as that happened, a new kind of money began to flow to Tauber—money for alterations.

The FBI didn't like Buzzard Point's layout. It wanted different paneling and special cables for its gee-whiz communication systems. So Westwood Construction, a company that by chance has the same business address as Southwest Joint Venture, began $539,000 in alterations. Over the years, GSA files show, Westwood has done nearly $2 million worth of alterations on Buzzard Point.

Since alteration contracts are "sole-source"—awarded without bidding—they almost always go to the leased-building developer. They are the icing on his cake, providing him a line of business in which the customer often doesn't exactly drive a hard bargain.

The GAO has found, for instance, that GSA "cost estimates," which supposedly control alteration profiteering, are sometimes prepared and slipped into file folders *after* the work has been performed and paid for. After $587,000 worth of alterations performed by the developer on an office in San Francisco, a GSA official admitted he had compiled the cost estimate sitting in the developer's office and working solely from his figures. The estimate included such carefully itemized categories as "Plants—$76,055."

Like adding a room onto a house, alterations can increase the value of the property. The property, remember, is private property. When GSA decided to lease an existing suburban Washington office for the Bureau of Alcohol,

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Tobacco and Firearms, it sunk in $2.2 million in alterations (performed by the developer on a sole-source basis). While the alterations were proceeding, GSA paid full rent on the building, to the tune of $407,000. So the government's total investment in the office, before the first revenuer could walk in the door, was $2.6 million. Before this investment began, the building had been appraised at $1.5 million. The appraisal more than doubled after the government investment.

Thus developers can exercise a special kind of entrepreneurial creativity—the more alterations they talk their tenants into, the greater their profits *and* the greater the value of their equity. Here is forged one of the unlikely alliances that enliven Washington life, an alliance between bureaucrats and builders. If you spend much time wandering through government buildings, you notice that there is always a wall going up here or being knocked down there. Bureaucrats are forever reorganizing, and reorganizing means rearranging the cubbyholes. Reorganizing lends the appearance of furious action, lets bureaucrats grant themselves raises by changing their titles, and most importantly allows them to claim they are doggedly assembling a crack new management team to tackle the nation's problems—at an unspecified later date, when the reorganization is completed. The building developer is only too anxious to please by forever rearranging the offices of deputy assistant deputies in relation to those of assistant deputy assistants. The GSA's budget for alterations and repairs this year is $180 million.

Alteration to accommodate computers is also popular, and this points to another of the myriad ways leases are used against the taxpayer. In theory, government has the ability to bargain for a good deal on office rents. Whenever the lease comes up for renewal (usually at five- to ten-year intervals) the GSA can threaten to move out. Alteration investments, however, make this already-farfetched possibility even less likely.

The government leases a large block of offices from Charles E. Smith Co., builder of Crystal City, a modern office mall near National Airport. The lease at Crystal City Building Two was up for renewal in December 1978. One of its major tenants, the U.S. Patent Office, wanted $160,000 worth of alterations for the installation of computers. GSA gave Smith Co. a sole-source contract to perform that work in May 1978.

You can imagine the poor GSA negotiator sitting in the developer's office, as heavy cranes are swinging computers by the window and a workman in the hall yells, "Hey, Ralph, give me a hand bolting this Patent Office stuff to the floor." The negotiator then says, "I must caution you, Mr. Smith, if your offer is not satisfactory, we shall vacate the premises." Perhaps there's no need to finish the story; in December Smith Co. hit the government with a 79 percent rent increase.

A particularly imaginative variation on the alteration theme occurred at Columbia Plaza in Washington's Foggy Bottom. This lease-construction project sat unoccupied for almost two years while the GSA tried to persuade someone to move in. The U.S. Customs Service finally agreed to do so, demanding $570,000 in alterations, which it got. Customs then changed its mind and didn't move in.

Other leasing flim-flams are almost too numerous to mention. One involves acquiring space without ever consulting Congress at all. The Public Works committees must give approval to any building lease committing the government to more than $500,000 a year in rent. But the GSA can sign lesser rents on its own. When the Veterans Administration wanted to take over the Union Center Plaza North building in Washington, it also wanted to avoid unpleasantness with Congress. So GSA rented four floors of the building for $452,000 a year. Then three months later it rented two more floors for $236,000 a year, bringing the grand total to $688,000 a year, but never involving the Congress.

Every pro basketball player's favorite word, renegotiation, is also important in leasing. While the initial terms of lease agreements are subject to demanding legal scrutiny, subsequent changes are treated like a little matter among friends. As construction of Columbia Plaza neared an end, the developer, John McShaine Inc., announced that it would not let the government take occupancy without a rent renegotiation. Instead of saying, "Congratulations, the building's yours," GSA renegotiated—to the tune of an extra $14 million over the length of the lease. Two weeks later, GSA started paying that bloated rent—paying for nothing, you remember, because there was nobody to move in. McShaine later sold the building to the government of Kuwait, so Kuwait is now the landlord getting the guaranteed profits on the guaranteed occupancy.

Dr. Laszlo Tauber himself is another pioneer in profiting from quirky renegotiation rules. The

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lease of his Parklawn Building in Rockville, Maryland, once required him to pay for utilities. Tauber proposed in mid-1973 that the government assume utility costs. Tauber offered in return to drop the rent about $900,000 a year, even as his books showed that utilities at the Parklawn Building were costing about $1.7 million a year. GSA officials were apparently too busy contemplating this higher math to read their morning newspapers, because they signed the deal in the spring of 1974, when something or other was going on with the Arabs and energy prices. Over the life of the Parklawn Building lease, GAO now estimates, that renegotiation will cost taxpayers an extra $9 million—*exclusive* of any increases in the cost of energy.

Of course, not all federal landlords play these games; many are sincere businessmen trying their best to muddle through. Ironically, it is the honest ones, laboring to abide by all the regulations in good faith, whose profits are squeezed. Following GSA rules honestly means a nightmare of redtape—and lower profits than what honest private-sector developers earn. As a result, some builders say, the best developers often shun federal work, leaving the field to the less worthy.

This logic is not lost on Congress; recently it froze the awarding of lease-construction contracts. But new buildings are still needed, if only to replace the old ones wearing out. Should they be built by Washington directly? Our guide now turns to that question.

Here Cons De Judge

One of the few new federal construction projects to be approved in recent years is a $13 million courthouse and office for Redding, California, a small town 170 miles north of Sacramento. The building is slated to house the U.S. District Court. The catch is that the District Court does not sit in Redding.

By the wildest coincidence imaginable, Redding is dead-center in the district of former Rep. Harold "Bizz" Johnson. Johnson was, until the voters came to their senses last fall, chairman of the House Public Works Committee. "Redding was his reelection project," said an informed Senate aide. "His staff was quite blunt in telling us, 'Look, we've got to get this building before the election.' "

Where the lease-construction mechanism is an invitation to guaranteed profits on dismal dumps, the direct-construction avenue invites political glorification. A new building "certainly makes a representative or senator who is running the next year feel very good," says Senator John Chafee. "Federal buildings do add a lot of class to a place."

Bizz Johnson started the Redding ball rolling by employing the no-floor-action system. In February 1980, he asked GSA to compile a "prospectus" on building needs in Redding. Requests for a prospectus can be voted out of either the Senate or House Public Works committees, and occasionally some other committees. In June the Department of Agriculture—slated to occupy part of the building because the phantom court alone couldn't justify a large enough project—informed GSA that it was already satisfied with its offices in Redding, records show. Admiral Freeman, then administrator of the GSA, looked over the file and declared the project a boondoggle; on a day he was out of town one of his deputies signed the prospectus and returned it to Johnson. By that time the building proposal included a district office for Johnson.

Johnson's committee quickly voted out money for the building, and expected the parallel Senate committee to do the same. If it had, construction could have begun immediately, without the question ever going to the floor. Senator Alan Simpson protested the bogus building, however. Playing on pre-election Democrat-Republican rivalries, Simpson got the Redding project delayed, hoping to finish it off later.

In November the people spoke and Johnson was out. But the Redding project did not die with him. During December's lame-duck session, Congress traditionally grows sentimental about its departing members. After all, Christmas is coming, and seeing their fallen colleagues wander the halls without anyone trying to bribe them makes congressmen think forward to the day of

"GUESS WHO publicly set fire to a Soviet flag last December? Give up? Okay, it was a group of Harvard and Radcliffe students — and they did it right in the center of Harvard Yard. 'We feel sympathy for those people who have to fight and die for their freedom. We don't want to allow people to forget Afghanistan and Poland.' These are clearly callow freshmen, not yet tutored in the complexities of a world where the East/West struggle has been replaced by the North/South dialogue."

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their own inevitable defeat—the shame, the ignominy, and the added insult of having to pay for their own parking. So they customarily award going-away gifts, the congressional version of the gold watch. Johnson's gift was the Redding courthouse, which both the House and Senate reinstated.

Creeping Quality

An oft-proposed solution to the pork-barrel problem is appropriating building funds on the floor, instead of in committee. One well-informed House staff aide insists this would only make the situation worse. "As it is now, we've got the pork barrel confined to the Public Works committees and a few committee chairmen," he explained. "If we voted out buildings on the floor, then *everybody* could get his pet project passed."

But setting aside the shenanigans of congressmen, there's a more maddening drawback to the direct-construction approach. It activates all the federal inflation and inefficiency guarantees we have come to know and love.

Direct federal projects must pay construction workers according to the Davis-Bacon Act, which means inflating wages out of all contact with reality. Carpenters in a federal building in Boston were making $19 an hour recently while carpenters in a nearly identical private project about a block away were making $13 [See "How Big Labor Brings Home the Bacon," February]. Federal projects must also comply with the Buy-American Act, which forbids use of less-expensive foreign materials; they must follow small-business and minority-contractor set-aside procedures, which means higher prices to subsidize businesses that, through legal chicanery, are often neither small nor minority-owned. Federal projects must pass through multiple layers of regulatory hearings, including filing the mind-numbing Environmental Impact Statement, which means a delay of one or two years even if all goes well.

Further inflating direct-construction costs are government building standards. On a lease-construct arrangement, the GSA issues only "performance" standards, meaning it tells the developer what type of building to build and approximately how it should look and function. Direct-construction involves "prescriptive" standards, meaning the government specifies everything—materials, measurements, pennyweight of nails and how many peepholes to drill in the sidewalk fence. "It's the difference between a booklet of specifications and a wheelbarrow," says James Whitlock, an assistant commissioner of GSA.

Government specifications favor fortress-like masonry structures capable of withstanding a light artillery assault. Most are designed with a 50-year lifespan in mind; the speculative office building is commonly designed to last 20 years. In the main durable government buildings are a good idea. However much you dislike the immortality of the bureaucracy, you might as well house it in the cheapest possible way, and studies have repeatedly shown that anytime you know a building will be needed for a long time, it's cheapest to build it properly at the start.

Government building standards are highly resistant to innovations in construction technology—which is a good thing, since construction innovations seem singlemindedly dedicated to the purpose of making buildings miserable penitentiaries. It is almost impossible, for instance, to build a glass-walled building under government codes. That's truly a blessing. Glass-walled building designers are the prime exponents of that wonderful advance, no windows, and people who like to breathe must fight them at every turn. But here again, the price goes up. Glass-walled buildings are cheaper and take less time to build.

Another reason federal buildings are so expensive is that they suffer from what architects call "quality creep." They have high ceilings, broad hallways, and spacious concourses designed to convey an air of grandeur and munificence. They can include offices with private baths and showers and similar platinum-plated features GSA inserts at the insistence of top agency executives. Architects call this "creep" because it lends the impression of quality without actually improving the usefulness of the building. (Broad hallways and sweeping concourses also mean heating and cooling extensive empty space.)

All things considered the GAO estimates it costs 40 percent more for a government-built building than a private-built one of equivalent use. The lease-construction arrangement was devised both as a budgetary gimmick, and to circumvent this extra expense the government had imposed upon itself.

Taking Paybacks

Gentlemen, choose your economist, take ten paces and fire the question: which is cheaper, building or leasing?

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A lease-construct building generally costs the government 2.5 times more over a 20-year span than direct construction. That disparity sounds shocking, but in truth it isn't. When you work backwards from the 2.5 premium, considering inflation over the lease span, the cost of borrowing, and what you could earn by investing the capital you didn't have to put up in the first place (a process called "discounting to present value"), you come out with leased and federally built buildings costing about the same, the OMB says. But if leasing and owning cost roughly the same, wouldn't you rather own?

There could be an intermediate position—a lease deal that ends in ownership, which is common in industry. The GSA lacks legal authority to enter such contracts, however, because they require up-front cash to buy a purchase option. For some reason Congress considers spending the public's money on options to be highly distasteful—probably because it would involve a capital appropriation that would appear on the budget.

The GAO estimates that most federally built offices recover their costs of construction and finance by the 14th year. Private industry likes investments that "pay back" in the five- to ten-year range, and would be unimpressed with a 14-year recovery. But government isn't industry; its needs are more stable and enduring, so longer-range investments are suitable.

What's needed is a much more flexible federal building approach, which repents from budget gimmickry and considers each of the three options—open-market renting, lease-construction, and building—in each case to find the most sensible arrangement. Often that will be open-market renting, because a floor here and a floor there is really all the government needs, as can be seen from the examples of GSA buildings sitting vacant. On rare occasion, the sensible choice might be lease-construction. On many other occasions, it will be building.

To make a true choice, however, all the inefficiency guarantees in each category must be done away with. It's silly for GSA space-finders to be unable to rent offices on the open market because, for instance, GSA policy makes it almost impossible to place good-faith deposits; by the time government can act on desirable space coming into the market, it's usually been snapped up. It's equally silly for the government to use lease-construction to circumvent the very rules it imposed on itself, like Davis-Bacon, set-asides, and the eternal EIS. When government is running a construction job, it should operate just like any private contractor. This may not be politically easy, but it's the only thing worth proposing because it's the only thing that makes sense.

By the time this issue is published there should be an important bill before Congress which would accomplish some of these goals. Sponsored by Senator Moynihan and nearly passed last session under the title S.2080, the bill would all-but-outlaw lease-construction. It would also mandate design competitions for major government buildings—a vital step in the effort to return creepless quality to government architecture.

The bill is worthy, but needs improvement. It shows little interest in open-market renting, and sets a timetable for tossing federal workers out of leased buildings. If taken seriously this timetable would require the government to launch an ambitious program of building 100 new offices over the next 15 years, at a cost of at least $1 billion yearly. Ronald Reagan may not be too thrilled about that. Also, Moynihan's bill perpetuates the little white lie. New buildings would be financed by borrowing from the Treasury at T-bill rates, but only the year's loan payments, not the total budgetary obligation, would be listed anywhere taxpayers might see it. The cost of building should be reported frankly. And there is, of course, one other way in which Moynihan's bill could be improved—it could specifically ban any projects containing the words Buzzard, Bizz, or Laszlo. ■

Don't be alarmed—there's still plenty of time to act before MISGUIDED REFORMERS like Moynihan impose STRANGLING REGULATIONS that take the FREEDOM OF OPPORTUNITY out of the federal building business. Remember, everything I've shown you is COMPLETELY LEGAL and even REASONABLY HONEST. Using my secrets is so SIMPLE and EASY that almost ANYONE COULD DO IT.

Simple...easy...anyone could do it...those are certainly words that come to mind when you think of contemporary architecture. Yet every day, men and women all over this great country are earning FANTASTIC SUMS designing buildings that have all the aesthetic appeal of AN UNDERGROUND MISSILE SILO. In a coming issue, part two of this series will reveal my secrets of federal architecture. To get this valuable information, be sure to RENEW YOUR SUBSCRIPTION before midnight tonight.

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They Were Wrong About *The Brethren*

by Robert M. Kaus

And the winner is... a "trivial, vulgar and stupid book" (*The New Republic*); a "failure" (*The New York Times*); a "travesty" that may have "destroyed the possibility of doing a more serious appraisal of its subject" (*The New York Review of Books*). Its authors exhibit a "monumental coarseness of understanding and sensibility," while their methods are "entirely unsuited to extended serious analysis." Fortunately, "in the long run, it is unlikely to have much impact" (*The Washington Star*).

Don't count on it. There is too much in *The Brethren** that is true and important. For all its obvious flaws, it reveals more of what there is left to know about how an entire branch of government works than... well, than just about any single book you could name. Certainly more than any other book published last year. Why, then, was it received in respectable liberal journals with the sort of inspired savagery normally reserved for film criticism and analyses of the Hiss and Rosenberg cases? The answers, I think, ultimately tell us more about the critics than about the book.

In part, *The Brethren*'s liabilities were aesthetic. Woodstrong doesn't write as well as Woodstein, and the prose in *The Brethren* is a peculiarly banal variant of the familiar omniscient, pseudo-fictional style ("For Brennan, those 13 words insured basic rights.... Powell really appreciated this team playing.... White swiveled to the right for his typewriter"). The book has its quota of observations that are trivial ("Meanwhile, Brennan had gone to dinner and returned to the Court") or questionable ("As a young man, Black had briefly been a member of the Ku Klux Klan, but he had been, in fact, always a progressive on race relations"). More important, the authors have little feel for the nuances of the constitutional debates they are writing about, often preferring to simply label the justices' positions as "liberal," "conservative," or "center." I would not want Woodward and Armstrong to be my lawyers.

In larger part, *The Brethren* may have been the victim of its own hype. The Court, according to the pre-publication build-up, might not survive Simon & Schuster. The justices were rumored to be trembling in their chambers, worried that Woodward and Armstrong had discovered another Watergate-type scandal in their midst. Other reviewers seem to have expected a brilliant scholarly dissection of the rulings of the Burger Court. *The Brethren* is none of these things.

It is, instead, a detailed reporting job that describes the actual processes by which the Court resolved major constitutional cases over a period of seven years. The justices are shown scheming, flattering, and lobbying to obtain majorities for their own opinions, jockeying to insert their language into somebody else's opinion. Some of them are insecure, most are egotistical, and all are extremely concerned with individual and collective images. They bend principles, read the election returns, and gauge

Robert M. Kaus is a contributing editor of The Washington Monthly.

**The Brethren* by Bob Woodward and Scott Armstrong, Simon & Schuster, $13.95.

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the political consequences of their actions. The picture is not scandalous—the justices are not revealed as cynical or corrupt. All seem to care about doing their job well. (We don't see any justices, say, deciding cases by flipping coins, or telling their clerks, "To hell with that dissent, let's go to the track.") Still, *The Brethren* shows them doing many things that, in the reverent mythology of the Supreme Court, we are supposed to believe the justices never do.

It was this aura of myth-debunking, more than anything else, that seemed to strike a raw nerve in the critics. "Reading this book," wrote Anthony Lewis in *The New York Review of Books*, "one senses a desire to bring a lofty institution down to the unheroic level of all others in these unglorious times." New York University law professor Graham Hughes, writing in *The New Republic*, concluded that *The Brethren* "is a true *succes d'scandale*, for it only debases America's finest institution."

When *The Brethren*'s critics speak in these awestruck tones, it becomes clear that they have a particular picture of the Court in mind. It is the civics-course ideal of the judicial branch. In this picture judges exhibit three special characteristics. First, they are constantly and passionately aware of their limited role in a democracy. Their decisions aren't based on a legislator's or voter's generalized sense of "what is to be done;" they are grounded in the commands of the Constitution and the "well-established precedents" interpreting its provisions. If nothing in the Constitution or the doctrines emanating from it says that "X is forbidden," then the Court will not forbid X. That is Congress's job.

Second, the model justices are intellectually honest. They reach their decisions on the basis of a conscientious consideration of the arguments in each case (not just the ones offered by the contending lawyers), and they restate in full, on the public record, the arguments that convinced them to decide one way or another. They are concerned, most of all, that their decisions make sense—that they follow logically and sensibly from the Constitution, or from prior interpretations of it that themselves make sense. Contradiction, evasion, and obfuscation are intolerable. Finally, the model judges are courageous. Once they have reached a decision, they go where it takes them, and damn the political fallout, the reaction of the press, or the practical consequences to themselves.

This is an appealing picture—it is my picture, too, of how the Supreme Court should work. But it precisely because this ideal is so compel-

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Bob Woodward
Scott Armstrong

ling that *The Brethren* is important. Woodward and Armstrong are showing us that, in many ways, the Supreme Court doesn't work like that at all.

In this context, the critical reaction to the book from the Court's admirers takes on a bizarre quality. It is as if the pope had been photographed ravishing a 14-year-old boy, and the bishops responded, "How ridiculous, everybody knows the pope is celibate." Hughes, for example, cites the abortion case of *Roe v. Wade* as "as good a one as any to see the authors going wrong." In describing Justice Powell's response to the case, Woodward and Armstrong had written the following:

"Powell quickly came to the conclusion that the Constitution did not provide meaningful guidance. The right to privacy was tenuous; at best it was implied. If there was no way to find an answer in the Constitution, Powell felt he would just have to vote his 'gut.'... When he returned to Washington, he took one of his law clerks to lunch at the Monocle Restaurant on Capitol Hill. The abortion laws, Powell confided, were 'atrocious.' His would be a strong and unshakable vote to strike them. He needed only a rationale for his vote."

Hughes, in response, says: "One can hope that Mr. Powell felt no such thing, for this view of judging is like a four-year-old's description of how a jet engine works.... To suggest that these questions can properly be decided by an intuitive or emotional leap is almost as silly as the author's other attribution (to Justice Blackmun) of the view that whether abortion should be legalized or not is a purely medical question."

But wait a minute. Woodward and Armstrong weren't claiming to describe the proper method of judging; they were claiming to describe what actually went on. They are saying that, *in fact*, Justice Powell voted his "gut" first and looked for a rationale later, that *in fact* Justice Blackmun tends to defer to the medical profession on

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questions that everyone else thinks are matters of either morality or constitutional law. These aren't implausible assertions—they fairly leap to the mind of anyone reading the Court's actual abortion decision. Critics like Hughes compared the *image* of the Supreme Court with what *The Brethren* says is the *reality*—and since the reportage does not match the image, they concluded the authors must have gotten it all wrong.

Almost alone among the critics, Lewis at least actively attempted to discredit *The Brethren*'s foundation—its reporting. He zeroed in on an incident in which, as the book tells it, Justice Brennan refuses to switch his decisive vote on an unimportant criminal case because he doesn't want to offend Justice Harry Blackmun, an insecure newcomer whom Brennan is trying to cultivate. Even before Lewis's review, Brennan's clerks had organized into a united front to deny the charge publicly. Woodward and Armstrong responded that what the clerks said in public about their former boss and patron might be very different from what they had said in private before the controversy started. Lewis countered with stronger denials from the clerks, and by sowing doubts about Woodward and Armstrong's fact-checking and note-taking abilities. All good fun, and Lewis did succeed in muddying the waters.

If I were a betting man, however, I would give odds that something very much like what Woodward and Armstrong describe actually took place—at least to the extent that Brennan was influenced by his understandable desire not to antagonize Blackmun. I would give these odds, in part, because I saw much the same thing happen myself, on a less dramatic scale, when I worked for the supreme court of my home state, California. Some of my more meritorious law school classmates clerked for the U.S. Supreme Court, and Woodward and Armstrong's account also rings true with what they have told me about the Court's operations. A clerk's-eye view of the Court—which is, basically, what *The Brethren* presents—may be distorted in several ways, most obviously in that clerks tend to exaggerate their own influence. But I have no doubt that it is accurate, as far as it goes, in its general portrayal of the events it touches on.

No Smoking Robe

Most of *The Brethren*'s critics claim that even if Woodward and Armstrong's description is accurate, it is, as Hughes put it, "worthless." The argument seems to be that everything anyone might want to know about the Supreme Court is evident from the record of its published opinions, with the exception of two sorts of information: tabloid-level scandal, or law-review level scholarship. Thus, Renata Adler ("a graduate of Yale Law School"), writing in *The New York Times*, concludes that "The only scoop there could possibly be about an institution as public as the Supreme Court would be revelation of crime or corruption," while at the same time she laments that the authors lack "an analytic mind and an integrating theme" to produce a more scholarly account. Jonathan Yardley echoed this complaint in *The Washington Star*: Woodward and Armstrong's revelations were not "the least bit important," because "there is no evidence anywhere in *The Brethren* that members of the Court have abused their powers, that they have distorted the law for private gain, or that they have violated professional ethics." A companion piece by Joseph Califano's law partner, Ben Heineman, Jr., delivered the highbrow half of the one-two punch. Woodward and Armstrong were "unlikely to have much impact," Heineman pointed out, because they "do not discuss in detail...the nature and scope of judicial review. They do not purport to analyze the court's actions in important substantive areas...or establish criteria for determining whether the decisions were proper or improper."

But why isn't there a level of useful knowledge about the Court that falls somewhere in between Mike Wallace and John Hart Ely, between proof that one of the justices takes bribes from Koreans and an arcane analysis of constitutional jurisprudence? I think there exists useful information of this sort. It is information about what might be called the "culture" of the courts: the habits, personality traits, biases, incentives, and pressures that help produce the decisions scholars spend so much time analyzing. It is precisely this sort of information that Woodward and Armstrong give us—in abundance.

Strange as it sounds to hear liberals arguing that the public doesn't deserve to have this information, it is stranger still to find the argument made by defenders of the traditional judicial ideal. After all, if the reality of the Supreme Court does depart from that ideal, it is not due to "crime or corruption" (of which there isn't any) and certainly not to a dearth of law review analyses of "the nature and scope of judicial review" (of which there are too many already). More likely, the causes will be found in the very culture that Woodward and Armstrong

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lay before us. Men like Lewis and Hughes should want to confront those truths, not avoid them, as the essential first step toward understanding how the reality of the Court might be brought closer to their persuasive image of what the courts should be. And they should want the public to join in this investigation, if for no other purpose than as a powerful potential "constituency" for the restoration of the civics-course ideal.

So what does *The Brethren* tell us about the culture of the Court that the public didn't know before? Here are four things to start with:

• *Most justices are "result-oriented":* Let me be "an insufferable prig swimming in self-importance," to use Lewis's phrase, and reminisce for a moment about my own clerkship.

I had, like most clerks, just finished law school when I started. More precisely I had just finished a term paper touching on an esoteric twist of modern "equal protection" law called the "rational relationship test." This doctrine purports to empower courts to strike down laws, under the Fourteenth Amendment, when they have no "rational relationship" to their purposes. An article in the *Yale Law Journal*, recommended by my professors, had convinced me that the "rational relationship" test was illogical. Every statute is "rationally related" to its purpose, as long as you define that purpose as doing precisely what the statute does. The doctrine was a fraud; like any self-important young law clerk, I was determined to correct the matter the first chance I got, to get my judge to replace it with a more subtle and sophisticated doctrine that would "balance" the "invidiousness" of any statutory classification with the "state interest" that justified it.

Needless to say, I was horrified upon my arrival on the West Coast to discover that the California court, widely respected for its doctrinal breakthroughs, had just struck down the state's "guest statute" (a law prohibiting "guests" in private autos from suing their "hosts" after

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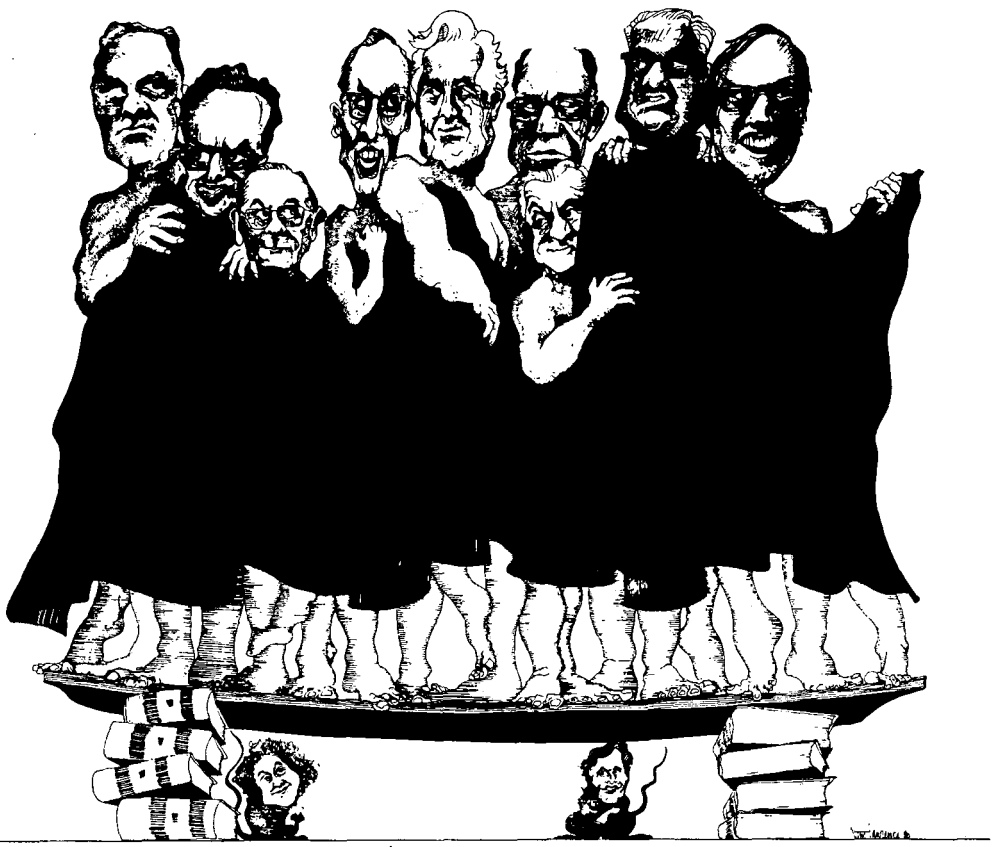

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accidents) on the basis of a bold revival of—you guessed it—the "rational relationship" test. Over lunch, I asked one of the professional clerks, who had been with the court more than a decade and drafted some of its most sophisticated opinions, how the justices could have done such a thing. Didn't they realize that the doctrine was a pernicious tautology? Hadn't they read the *Yale Law Journal*?

"Maybe," he answered. "But it was time to get rid of the guest statute. Every other state already has."

So it rang true to me when Woodward and Armstrong described the reaction of Justice John Paul Stevens to his first term on the Supreme Court: "By the end of the term, Stevens was accustomed to watching his colleagues make pragmatic rather than principled decisions.... Though it was not at all what he had anticipated, it was the reality."

Much as we might like to live in an Anthony Lewis world, where judges care about the reasoning in their decisions rather than the results, where their views are immune from the broad "liberal," "conservative," and "centrist" labels that afflict the rest of the population, it is not the world in which we live today. For every John Harlan who worries first about the internal rationality of the law, there is a Potter Stewart who, as Woodward and Armstrong report, thought that "abortion was becoming one reasonable solution to population control.... The public was ready for abortion reform." There is a William Douglas, reputed to have never voted against an injured employee in a federal negligence case, a William Brennan who believes that "if the Court was to begin diminishing federal power, it would be a blow to liberalism," and a Warren Burger, who votes to free Muhammed Ali thinking it "would be a good lift for black people," and who sums up his theory on the First Amendment in a memo stating "a little 'chill' will do some of the pornos no great harm and might even be good for the country."

There are, of course, variations among different "result-oriented" judges: Some, in the tradition of Hugo Black, prefer to lay down apparently firm doctrinal rules; others, like Lewis Powell, seem to resort to ad hoc "interest-balancing" in every case. All these subtleties are important. Still, as a generalization, *The Brethren* confirms what the public already may have suspected: most judges are, like the late Earl Warren, "more interested in the basic fairness of decisions than the legal rationales."

• *Clerks have power:* Often the people who are left to think up the rationales are the justices' law clerks. They may be, as I was, itching to write into law the recently imparted wisdom of their law school professors. But they have strong opinions on the proper results of cases as well—stronger opinions, no doubt, since the Supreme Court has become an engine of social change and attracted a variety of bright young reformers and idealists into the law and into clerkships.

In *The Brethren*, the clerks are depicted as continually lobbying their justices. Sometimes they fail—as when Justice Powell's clerk, who is "sickened" by capital punishment, dutifully labors on Powell's opinion supporting it. But at other times, the clerks have extraordinary leverage.

A good example, as described by Woodward and Armstrong, was *O'Connor v. Donaldson*, a lawsuit brought by an involuntarily committed mental patient. Chief Justice Burger had sought to hear the case, thinking it would be a good vehicle for striking down a number of liberal lower-court opinions that gave mental patients a constitutional "right to treatment." But Burger did not count on Joel Klein, one of Powell's clerks, who had previously worked at a public-interest law firm called the Mental Health Law Project, which had helped pioneer the "right to treatment."

"From the day the Court agreed to take the *Donaldson* case... Klein gathered the academic, medical, and legal literature on the subject of right to treatment, including 30 law review articles, and saw to it that they got wide circulation within the Court. He missed no opportunity to drum up sympathy for Donaldson." Donaldson's attorney, meanwhile, asked one of Justice Stewart's former law clerks, who had *since* gone to work for the Mental Health Law Project, to help rewrite his briefs "with an eye on Stewart's vote." Donaldson's lawyer even brought the Stewart clerk—the ubiquitous Ben Heineman, Jr.—to oral argument because "he wanted Stewart to know that the case meant a lot to his former clerk."

When Justice Burger circulates his draft opinion, the clerks gather in Justice Stewart's chambers to plot their strategy. They decide that Stewart is the best man to write a dissent. Stewart's clerks are delegated to approach him. "You have to do this," they tell him. He assigns them to write the opinion. Powell's clerk, Klein, goes over the draft and makes changes designed to win Powell's vote. Later, Klein campaigns

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against Burger's opinion. "The debate turned not on what the Chief had said or intended, but on what Klein and some other clerks said it might mean." Eventually, Burger loses all the justices' votes except Rehnquist's. He never knows what hit him.

Even if you heavily discount this story for the self-aggrandizement factor, Woodward and Armstrong have shown that the clerks at the Supreme Court exercise a peculiarly potent form of the influence that most subordinates exercise over their bosses. To be sure, in the *Donaldson* case, as in all others, the individual justices made their own final decisions on how they would vote. Congressmen make their own final voting decisions too. But if they are not influenced by the people with whom they talk, then a lot of corporations are wasting a lot of money paying a lot of lobbyists—and paying them to talk to a lot of Congressional staff members.

In My Dissenting Press Release...

• *Judges are media-conscious:* Since *The Brethren* is based heavily on breaches of confidence by former law clerks, it prompted considerable hand-wringing over the possibility that it would destroy what Renata Adler termed "the relation of clerkship." ("How can such intimacy survive," asked Lewis, "if every time a judge lets off steam at a colleague he has to worry about seeing his words in print?") From all accounts, none of these dire predictions have come true, and for a simple reason. Thanks to our society's pathological obsession with conflicts of interest—peculiarly acute, of course, when it comes to judicial behavior—our judges lead extraordinarily isolated lives. (Justice Harlan, again the lawyer's model, considered it a conflict-of-interest to vote in presidential elections.) Judges might like to at least bat around the legal questions they face with their lawyer friends, or with scholars, but they are prohibited from doing that as well. Quite simply, their clerks are often the only people left for them to talk to. So they keep talking, *Brethren* or no.

This isolation, along with life tenure, is supposed to free judges from the influences of the outside world. Ironically it underlies another characteristic of the court culture revealed in *The Brethren*: our judges' unexpected concern with the reactions of the press. I remember learning (through reliable sources, trust me) of two liberal appellate judges who were on opposite sides of a Landmark Case. After months of internal deliberation, of argument and counter-argument, the court's opinion was handed down. After more months, *The New York Times*'s opinion was handed down. It endorsed the position of the dissenting judge. The *Times* editorial was quickly circulated throughout the court with a note from the dissenter whose gist, only half-jokingly, was "I told you so." For the next two months, the court was a war of newspaper clippings, as the contending judges circulated editorials and interest-group endorsements to bolster their positions.

The justices in *The Brethren*—and not only the Chief Justice—do not exhibit much more disdain for "images," or for the reactions of the press and public. The reason is again, I think, that aside from reading law reviews, talking to their insufferable clerks, and checking the applause meter at bar association functions, the papers are one of the only ways justices can get "feedback," as it were, on their performance. Every human being wants to find out how he's doing, gauge his self-esteem—and be told he's doing well. So Justice Powell is encouraged to tailor his opinions to fit his emerging, widely praised image as a Harlan-style "balancer." Stewart is loath to overturn a precedent he had established the year before, because it will look bad. Marshall is reluctant to write the abortion decision because the media will interpret it as a "black" perspective. For Burger, image comes close to supplanting substance altogether. (Ironically, this emerges as Burger's saving grace. In case after case the Court is held together only because the Chief is content to accept the views and language of his colleagues—as long as the majority opinion in which they are contained has his name on it.)

• *Judges are politicians:* In the law school model of the courts, judges are passive. Litigants wander in with disputes, and the judges merely call 'em as they see 'em.

In the real world judges—at least the best appellate judges—have agendas: interests they want to protect, precedents they want to demolish, new precedents they want to establish. Often, it is true, they seem to allow their agendas to be set by the law reviews, the bar, and the press, in accordance with their preferred images as liberals or conservatives, bold trailblazers or responsible line-drawers. But a person would have to be something of a slug to have spent a life lawyering and judging without developing a few strong views of his own about which doctrines and decisions were right and which were wrong.

Judges use what tools they have at their disposal to promote these goals. Explicit poli-

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tics—the trading of votes, the rolling of logs—is not generally one of these tools. You do not find a justice in *The Brethren* leaving a colleague's chambers, shaking hands, and saying meaningfully, "You owe me one." But there are subtler, more accepted methods of exerting influence, involving lengthy courtship and ego-massage, and they are well documented in the book. Justices who hold a slim majority, for example, routinely assign opinions to the shakiest member of their coalition, knowing that once a justice's ego is invested in a major piece of work it will be difficult to dislodge him. Justices of both the "left" and "right" go along with opinions they don't quite approve of for fear of alienating the authors.

In the first two years after Justice Blackmun joined the Supreme Court, Justice Brennan—one of the Court's most ready and passionate dissenters—rarely authored a dissent from a Blackmun opinion. Later, Blackmun would provide a crucial vote for Brennan's "side" in the landmark *Bakke* and *Weber* cases. I am not saying there is a direct link between those two facts. I am implying that Brennan realized that by refraining from openly attacking Blackmun he would not hurt his chances of convincing Blackmun on other, more important issues in the future.

The Wizard Will Help Us

There are other lessons in *The Brethren*—about the networks that steer particular law clerks to particular justices, about various bluffs and tricks that can be pulled within the Court's relatively unstructured voting framework, particularly when there is a need for unanimity. But I can already hear the critics yelling "That's irrelevant!" As Yardley put it: "What matters about the Court is the decisions it renders, not the private sentiments that may or may not influence them."

Lewis: "The Court, unlike Congress and the Executive, publishes all its decisions and the reasons for them.... The Court stands—or falls—on what it says in its printed opinions, not in its private discussion."

Hughes: "Nothing is added to our store of knowledge...."

It is hard to take these statements seriously. Is it really of *no* significance, for example, that the justices care more about result than rationale? I would think it significant enough if I were a lawyer relying on the rationale in a case where doing so would produce a different result. Is it irrelevant that law clerks have influence? Not to Mr. Donaldson—and surely not if the law clerks, as Woodward and Armstrong confirm, tended throughout the 1960s and 1970s to be overwhelmingly liberal—people who hung Nixon masks on their office walls before lobbying their justices ("Powell's clerks beseiged him.... His clerks knew which arguments to push. It was really a matter of balancing...").

Adler and Lewis themselves point to the "useful" role of clerks "in keeping the justices in touch with new scholarly ideas." So the "relation of clerkship" serves, at a minimum, to drastically shorten the time between the invention of a new legal doctrine at Yale and its inscription into the law. Some may think this a blessing. In one area, at least—the treatment of government jobs as a "property right"—the law-clerk conveyor belt succeeded in getting a new scholarly idea cemented into the Constitution only shortly before legal scholars decided it wasn't such a hot idea after all. But good or bad, the effect of the law clerks is hardly *irrelevant*.

That is true as well for the other effects of the Court's culture. If the published reasons for a government action were really all that mattered, our major newspapers would content themselves with reporting and analyzing the press releases of the White House and the floor statements reported in the *Congressional Record* (unless they could uncover a scandal, of course). It is a lawyer's snobbery, after all, to insist that only judges explain their actions. Other government officials including politicians have a similar, if less formal, obligation. Sometimes their explanations make sense, and sometimes they don't—but the same can be said for the courts. In neither case are the real influences on a decision reflected entirely in the official record. Where they are not, they are legitimate subjects of popular interest.

And popular interest in the culture of the Court may offer the only hope of restoring its original ideal. Because I think an overwhelming case can be made that, even if "the Court stands or falls on what it says in its printed opinions," the Burger Court has fallen. The Court's bizarre flip-flops (see Robert F. Nagel's article in the November 1980 issue), its seemingly unpredictable creation and curtailment of constitutional rights, cry out for some ulterior explanation.

The abortion case is only the most obvious example. Hughes, while ridiculing Woodward and Armstrong for their account of Powell's "abdominal" decision-making, describes the approved procedure this way: "Failure to identify

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and convincingly explicate a constitutional right to claim an abortion must therefore lead to upholding the state statute [e.g. allowing a ban on abortions] and not consulting one's stomach rumblings." Well, the returns are in, and the verdict is almost unanimous: the Court failed miserably to "identify and convincingly explicate" a constitutional right to an abortion. Woodward and Armstrong simply confirm the paramount role played by the judicial stomachs.

The question, by now, is not *whether* the courts have abandoned the civics-course ideal. We should be asking *why* it happened—the indispensable prelude to doing something about it. In answering that question honestly, it will be impossible to ignore the cultural factors Woodward and Armstrong describe. In explaining the Court's grab for legislative power, for example, how can we dismiss as irrelevant the way activist law clerks (longing for the chance to "make some good law") interact with result-oriented judges, who are in turn seeking to impress their audiences, the law reviews and the editorialists (who all too often become a claque for more bold judicial "trendsetting")? In trying to explain the Burger Court's failure to make a principled break with this sort of activism (a failure of which *The Brethren* is a chronicle) it will be equally hard to ignore the vague decision-making process of the Court itself—where, under the leadership of a clumsy tactician like Burger, the chaos of draft and counterdraft, flattery and conspiracy insures that important decisions in areas like busing emerge as mere "paste pot" jobs, in which contradictory paragraphs are simply glued together.

None of these are particularly novel theories within the legal profession. Indeed, it is a point made with some regularity by *The Brethren*'s critics that, as Adler put it, the book contains "no revelations that would astonish any lawyer or other student of the Court." Adler is quite right that the basic Supreme Court culture described by Woodward and Armstrong is well known at any number of elite law schools. Elite law schools are where former Supreme Court clerks tend to end up. The clerks know what goes on, and they are usually more than willing to share it with their elite law students.

But Adler's criticism is revealing. *The Brethren*, after all, is not written for "lawyers or other students of the Court." It is written for the public. Woodward and Armstrong have merely let the cat out of the bag, and you get the distinct impression that this is what really troubled the book's liberal critics. Instead of using *The Brethren*'s disclosures as a starting point for figuring out why their noble judicial ideal has been eroded, they would like to lock the information back up.

Some seem committed to preserving the appearance of the judicial ideal despite the evidence that it is largely an appearance only. Others have come, like so many liberals, to put an almost religious faith in the power of the courts to do what they can't convince the Congress or the voters to do. They speak reverentially, as Adler does, of the Court's "radical and humane judgments" on issues like abortion. They like these judgments more than their own ideal of the Court, and they fear the Court's power to keep making those judgments will be impaired if the man-on-the-street learns what he previously could only suspect: that the Court is a political institution, comprised of political men often operating beyond the traditional restraints of democracy or even intellectual honesty. They are afraid that a black curtain has been stripped away, and where there was once the Wizard of Oz, issuing resonant, obedience-inspiring pronouncements, there are now only nine old men speaking into a microphone. They wish they could get us, as the Wizard would command Dorothy, to "Ignore those men behind the curtain!"

If they were truly committed to their own judicial ideal, I think they would have welcomed *The Brethren*. It is doubtful that the necessary powers of the Court will suffer simply because the people know the process by which they are exercised. Indeed, with the curtain down, some of the justices' actions, like the Nixon tapes decision, appear as inspiring exercises of a judicial power all the more to be preserved.

On the other hand, *The Brethren* reveals, in a way no law review article ever could, that other exercises of the Court's power have set the justices awash in a sea of personal moral judgments, voting their "guts," playing legislator, deciding first and reasoning later. Instead of lamenting this knowledge, we might accept it, take it as a rough guide to the sorts of decisions we should rely on the courts to make for us, the ways in which we might try to change the culture in which the justices operate. That is *our* right to judge. Thanks to Woodward and Armstrong, we now have an entirely new order of information on which to base our judgment—and we can expect to learn even more in the future as other reporters follow their lead. For that they deserve a lot more credit than they've gotten. ■

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Before we put you on the rack, Sir Thomas, perhaps you'd like to see our fine selection of Wedgewood cream pitchers...

There is a sign in Warwick Castle near Birmingham, England, that says:

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Here is a paragraph reprinted exactly as it appears in Request for Proposal No. NIE R8-005 issued by the National Institute for Education, which is part of the Department of Education:

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The Announcement Was Made by the Deputy Commissioner of Good Vibes

The Department of Personnel in financially troubled New York City has just announced a new position: Director of Puppetry.

Tidbits & Outrages

Deadly Life-Preserver Claims New Victim

Recently officials told a hospital in Valdez, California that a door separating the lobby from the reception room did not meet fire-safety standards. The hospital installed a new overhead door that does meet standards. Made of metal, it weighs one-quarter ton and rolls down automatically when sensors detect smoke. Unfortunately it also rolls down whenever the power fails. So there is now a sign on the hospital's reception desk warning of the dangerous safety door. . . .

Let's See, We Have an Opening for an Information Specialist...

Under the "U.S. Government" section of the D.C. phonebook, there is a number for "Federal Job Information."

Last summer, a friend of ours dialed that number. She reached a tape recording. The taped voice said that all lines were busy, but it would provide "general information" while the caller waited for an "information specialist" to answer personal questions.

The "general information" included nothing relevant to getting a federal job, but it did suggest that lines were busiest between 11 a.m. and 3 p.m., so calling before or after was advisable. The recording was repeated six times, and then the line was disconnected.

The next morning our friend arose at 8 a.m. to call before lines were busy. She reached the same recording. She has been calling every month since then and has yet to be connected to anyone.

NASA Cites Wheelchair Ramps in Cockpit As Cause of Further Space Shuttle Delays...

And speaking of life-preservers, you may recall the California safety regulation requiring that they be worn by workers on a bridge. . . . over a dry river bed. Now comes word that the Sierra Ski Ranch near Echo Summit, California, was required to make the restrooms of its new lodge accessible to people in wheelchairs. The lodge itself is accessible only on skis.

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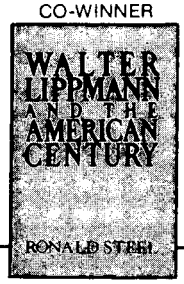

WALTER LIPPMANN AND THE AMERICAN SYCOPHANCY

by Michael Kinsley

It's the summer of 1905 and Walter Lippmann, age 15, is in Paris with his parents. Whom should he meet at the Louvre but Isabella Stewart Gardner, the legendary Boston art patroness. Mrs. Gardner is "immediately taken with his intelligence and charm," and "Walter was not nearly so naive as his cherubic face seemed to indicate," reports Lippmann's biographer, Ronald Steel.* She takes him under her wing for the next few weeks in Paris, then again when he arrives at Harvard the following year. Young Walter is on his way.

Beginning with that moment at the Louvre, and continuing throughout the first half of one of the most successful careers in American history, Walter Lippmann was always somebody's young man. Then he started having young men of his own.

Lippmann's connection with Mrs. Gardner was made in Europe, and was in the European style of a younger man paying court to an older, aristocratic woman. His future liaisons all followed the classic American model of the successful older man adopting the admiring young protege. Indeed, Lippmann *is* the classic American model of success for the twentieth century, updating the fictional heroes of Horatio Alger novels. Alger's heroes, contrary to popular perception, were not self-made men who, through virtuous personal qualities, lifted themselves up by their own bootstraps. They were boys whose virtuous personal qualities came to the attention of benevolent successful gentlemen—gentlemen who saw in these fine young men idealized youthful visions of themselves, and who rewarded them with success and, perhaps, the hand of a daughter.

In theory, the protege model of success accords with the principles of meritocracy, because one's place in life is determined by how much one displays the qualities commonly identified (somewhat arbitrarily, in my opinion) as merit—intelligence, dedication, hard work, and so on. In practice, two problems arise when the medium that turns inchoate personal qualities into the hard currency of success—money, status, self-esteem—is the personal evaluation of some father-figure rather than the anonymous workings of the marketplace. First, meritocracy loses a large chunk of its legitimacy when it sidesteps the "invisible hand" of the market, which is supposed to guarantee that each person's selfish quest for success will benefit everybody. Second, as we all know, successful protege-ship involves qualities that are not normally thought of as meritorious. One is good looks (though it's a puzzle why getting ahead through intelligence should be considered admirable, whereas benefiting from good looks is considered disreputable, or at least slightly unfair). Another is a talent for sycophancy, and a willingness to exploit it.

Michael Kinsley is senior editor of The New Republic, *and a contributing editor of* The Washington Monthly. *He is also a friend and co-worker of Ronald Steel's, so his praise of this book should be discounted accordingly.*

**Walter Lippmann and the American Century*, by Ronald Steel. Atlantic-Little, Brown, $19.95.

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His Swoon Song

Of course most successful careers are based on a mixture of talent and plenty of luck, and certainly no one could be as fantastically successful as Walter Lippmann without a large dose of genuine talent. But the importance of skilled protege-ship cannot be underestimated, and has not diminished since Lippmann was young. Our new secretary of state, Alexander Haig, is the most dazzling current example of the successful protege. He was one of General MacArthur's young men in Japan 30 years ago, and even after his recent triple-bypass heart operation he was playing young man to the chairman of United Technologies. In between he was taken up by Cyrus Vance, Henry Kissinger, Richard Nixon, and Gerald Ford, leaping from colonel to four-star general on the basis of Kissinger's beaming approval. (See Jonathan Alter's story on page 14.)

Haig would do anything for his mentor, and has proved it with distressing frequency. Lippmann was never in the same league as Haig in this respect. But for a person who expressed his views so eloquently, Lippmann was awfully docile about changing them as he changed mentors. And Lippmann's unattractive theories about the limits of democracy and the need for an elite class of experts to run things can be seen as the natural consequence of his own early practice of swooning before gurus.

Steel's book offers an opportunity to watch one of the top proteges of all time doing his stuff. Steel, of necessity a great admirer of Lippmann, presents all the available evidence but generally limits himself to a few sly remarks to indicate that he sees what's going on. He is certainly right to give Lippmann the benefit of the doubt wherever possible, and to present his determined and obsequious pursuit of distinguished elders more as "genuine youthful exuberance" than as cynical calculation. But Lippmann's behavior does get a bit thick at times, even for Steel. A revealing, slightly comic effect can be achieved by running the first 200 pages or so of Steel's book through the projector at super speed:

1906. Harvard. "Taking advantage of the system of free electives, he sought out the star professors." Lippmann signs up for the course, and the coterie, of the famous composition professor Charles Copeland, known as "Copey." "Not everyone responded to Copey's brutal methods, fey manners, and obvious favoritism for the talented and the handsome." Steel notes. But Lippmann writes in tribute: "You began to feel that out of the darkness all around you long fingers were searching through the layers of fat and fluff to find your bones and muscles."

One day William James knocks on Walter's door to congratulate him on a student magazine article. "Recovering from his stupefaction, and quick, as always, to seize upon an opportunity, Lippmann suggested that they take a little walk together through the Yard.... The philosopher, impressed by Lippmann's charm and intellectual curiosity, suggested he come for tea. The invitation became a weekly ritual."

Sophomore year. Walter Lippmann signs up for a course with George Santayana. "During his third year he struggled between the rival visions of Santayana and James, but soon fell under the Spaniard's spell.... The philosopher had drawn his star pupil into his net, enlisting him as dinner companion on forays into Boston, making him an audience for malicious remarks about colleagues," including William James. (Steel gallantly suggests, without evidence, that Lippmann "squirmed at such gibes.") "They made a curious combination: the fine-boned philosopher with his burning dark eyes, noble brow, and quizzical smile; the eager pupil whose quick intelligence and passionate idealism shone in a face still round, a bit unformed."

Senior year. The famous British Fabian, Graham Wallas, arrives at Harvard. Lippmann signs up for his seminar. Wallas's ideas "fell on fertile soil." They become close. Wallas is impressed by Lippmann's "charm, his talent for writing, his ingratiating manner and appearance...." He dedicates his next book to his star pupil. Lippmann responds, "Nothing that has ever come to me has meant so much.... I know I've done nothing to deserve such a gift...."

Undergraduate organizations that invite famous speakers to campuses are always dens of budding proteges. Lippmann helps to found the Socialist Club. Lincoln Steffens, the great muckraker, comes to speak. "Lippmann, not one to let a great man pass by, cornered Steffens with earnest questions about corruption in high places."

After college, Lippmann goes to work for a small progressive paper in Boston. But after a few weeks, he writes to Steffens that "it would be a serious waste of time on my part to stay with it...."Actually, "What I have dreamed of doing is to work under you.... Can you use me in your work? There is no position I should go at with more eagerness, because there is no kind of work that appeals to me as much as yours does." Money doesn't matter. Steffens responds, "I was

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ART BY VINT LAWRENCE

going to look for a man something like you.... My assistant would have to put in a lot of time getting stuff for me and typewriting and doing a whole lot of menial labor." Lippmann grabs the job.

"Aside from an assistant," says Steel, "Steffens also wanted a companion, someone he could go fishing with in the afternoons." After a year, Lippmann writes to Steffens: "You often asked me whether the year had been worthwhile. Lord, if I could tell you and make you believe it. You'd know then why 'Everybody who knows you loves you,'" and so forth. Lippmann "later grew critical of Steffens's evangelical side and his intellectual laziness," Steel reports, but that is later—when he no longer needed him.

Steffens departs for England. Lippmann meets the Reverend George Lunn, newly elected socialist mayor of Schenectady, who is "looking for a bright young man whom he could take to Schenectady as an assistant." Lippmann accepts. "When the new mayor took office on New Year's Day, 1912, Lippmann was already stationed at his desk, just outside Lunn's door. At the beginning it was all very exhilarating.... Finally, after four months of frustration, Lippmann gave up.'" He publishes an article denouncing Lunn for insufficient dedication to socialism. A year later Lippmann publishes his first book, *A Preface to Politics*, in which he "discarded any lingering sentimentality about socialism" and produces a "hymn to Bull Moose progressivism."

Fall 1913. An invitation to lunch with Herbert Croly, author of *The Promise of American Life*, a progressive polemic embraced by Theodore Roosevelt. He plans to start a magazine of "constructive nationalism" with money from Willard and Dorothy Straight. "Lippmann realized that this was a man he could work with easily. He made his bid across the lunch table. The new magazine...would put him in touch with influential people and give him a forum far beyond that of the socialist true believers." So Lippmann joins *The New Republic*.

Through Croly and the Straights, "Lippmann was meeting different people from those he had known as a muckraker and socialist. Some were rich, many were eminent—very few were radical .... Lippmann cultivated these people for what they could teach him and for their ability to advance his career.... Later the great would seek him out. At 24 he sought them out. In his quiet way he was an exceedingly ambitious young man who used his intelligence and charm to cultivate older men: Learned Hand and Oliver Wendell Holmes, Jr.... In the talented young essayist... they found a disciple worthy of their own estimate."

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Theodore Roosevelt, then (as he thought) between presidencies, reads Lippmann's book and drops him a short congratulatory note. Walter responds: "You can readily see from my book that it owes a great deal to you, and for that reason I was very eager to have your opinion of it." Breakfast soon follows at the Harvard Club, and Lippmann volunteers to draft a position paper for Roosevelt. "Roosevelt rose from the breakfast table, grasped Lippmann's hand in a viselike grip, and told him that they were now partners in a common cause." Steel comments drily: "Lippmann left the Harvard Club... he felt he had crossed another frontier."

A Large Circle of Friends

A trip to England to recruit writers for *The New Republic*. (Those were the days!) Through Graham Wallas (remember him?) Lippmann meets the Webbs, George Bernard Shaw, Leonard Woolf, H.G. Wells, and so on. "Finding Lippmann engaging and remarkably mature for his years, Wells introduced him to some friends: Arnold Bennett, G.K. Chesterton, Hilaire Belloc...." You get the idea.

It's useful here to contrast this to the attitude of another young man, George Orwell, who admired Wells's work even more than Lippmann did. As Bernard Crick tells it in *George Orwell*, a soon-to-be-published biography, Orwell used an early meeting with the great man to pick a fight, attacking Wells's point of view of Hitler's advances, rather than to ingratiate himself. Orwell starved through most of his career; Lippmann never missed a meal in his life. Let that be a lesson. Let this be another: Orwell's writing will be read forever; Lippmann may well be remembered best for Steel's biography.

Back to the fast-forward. Lippmann's second book comes out in 1914. "If nothing else, *Drift and Mastery* showed Lippmann's intellectual flexibility, his willingness to jettison old ideas as soon as new ones were at hand. While some may have considered it evidence of a lack of conviction, it reflected the fact that he had put his iconoclasm behind him." Life goes on. A quarrel with his classmate, John Reed, who has not put iconoclasm behind him, is patched up with the immortal words, "Let's have lunch."

While "ostensibly still a 'friend' of Roosevelt, Lippmann was setting out his lines to the Wilson administration. Through Croly and Straight he had met a good many important government people, including Wilson's political adviser and alter ego, Colonel Edward House." An interview with Wilson. Lippmann and House become close. "Lippmann, who had had considerable experience with politicians, had gone to the White House a skeptic. He emerged from his interview with Wilson a virtual convert." As for Roosevelt, "he had only disdain for the faithful who had followed Teddy" into oblivion, and wrote as much.

"Lippmann's unattractive theories about democracy and the need for an elite class can be seen as the natural consequence of his early practice of swooning before gurus...."

World War I. Lippmann at first opposes American involvement, then argues for "benevolent neutrality," then becomes an enthusiastic drumbeater for U.S. entry on the Allied side. He gets his way and suddenly finds himself subject to the draft. He writes to secretary of war Newton Baker that "I am convinced that I can serve my bit much more effectively than as a private in the new armies." Also, he adds, his father is dying (a process that takes ten years).

As luck would have it, Baker is in need of a special assistant. Lippmann writes Baker: "It's a job at which I would work with all my heart, because I'd rather be under a man in whose whole view of life there is just the quality which alone can justify this high experience. I needn't tell you that I want nothing but the chance to serve, that salaries, titles, ambitions play no part whatsoever."

It's May 1917. Lippmann moves (with his new wife) into a commune of hot-shot special assistants known as "the House of Truth," where he is taken up by the sort-of den father, Justice Oliver Wendell Holmes. "Holmes... was particularly fond of Lippmann.... Lippmann... took a special pleasure in being one of the young men the justice delighted in." I bet.

In September 1917 Lippmann hears from Colonel House, who invites him back to New York to help plan the peace. "Lippmann was gripped by a mounting excitement.... 'Nothing has ever pleased me more or come as a greater surprise,' he wrote House.... 'I'd literally rather be connected with you in this work in no matter what capacity than do anything else there is to do in the world.'" Steel adds gratuitously, "Lippmann cleared up his desk in the War Department and bid goodbye to Baker."

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Lippmann goes to New York, helps write the Fourteen Points, gets commissioned as a captain to write propaganda, heads off to Europe (after "conferring one last time" with Colonel House and kissing his wife), arrives at the American headquarters in a French provincial town, and without unpacking takes off for a conference in London, finds a reason to set himself up in Paris, becomes House's assistant for the peace talks, gets flu, and sails home. He returns to *The New Republic*, writes *Public Opinion*, joins the legendary, liberal *New York World* as assistant editorial director, gets promoted to director of the editorial page, then finally, in 1931, begins writing his column, "Today and Tomorrow," for the conservative *New York Herald-Tribune*. This was considered shocking, but people got over it.

Having gotten that far, Lippmann no longer needed to hitch his wagon to a star. Thus in 1932 he could afford to write Franklin Roosevelt off as a "playboy" who would not amount to much, one of many examples Steel cites where Lippmann's judgment was monumentally off base. (By contrast, in 1920, when Roosevelt was the vice-presidential candidate on the losing Democratic ticket, Lippmann wrote him a fawning letter assuring him that "Frank" Roosevelt would be remembered as one of the giants of the age.)

But Lippmann's sycophantic skills continued to be useful in the latter half of his career. Lippmann became the first and foremost exemplar of the "insider" column, which depends for its usefulness on friendship with the powerful—that is, adult sycophancy. In this mode, the subject of affection is approached as an equal rather than as a supplicant/protege, but the techniques are the same and they are still in the service of success. Brown-nosing Lincoln Steffens in a letter after college is not so different from brown-nosing Charles de Gaulle in a column after World War II.

As a get-ahead-protege prototype Lippmann has some competition in business, politics, and other realms. But the legacy of his adult sycophancy is exclusively his. The example Lippmann set in his column has been terribly destructive for journalism. Lippmann spawned a whole generation of "thinking" columnists like James Reston and Joseph Kraft, whose reputations in large part depend on their familiarity with the great. Every morning when you confront your local op-ed page, you should curse the day young Walter Lippmann met Mrs. Isabella Stewart Gardner at the Louvre. ■

The Politics of Land-Use Reform

FRANK J. POPPER

The land-use reform movement that arose in the late 1960s was, and remains, one of the major currents in recent American social, economic, and political history. Here, in a highly readable combination of sophisticated policy analysis and on-the-ground realism, Frank J. Popper examines the movement, tracing its origins, course, results, and lessons to be learned.

The major political theme of the reform movement has been the attempt of environmentalists to improve American land-use practices by shifting many planning and zoning powers from local governments to regional, state, and federal levels. The book analyzes the movement both in itself and in light of the experience of centralized regulation as applied to other fields. The author's trenchant analysis will be of significant value to lawyers, zoning and planning officials, policymakers, political scientists, economists, and all citizens interested in land-use, environmental, or other regulation.

336 pages; 1981; cloth $20.00; paper $7.50

At bookstores, or write
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114 North Murray Street, Madison, Wisconsin 53715

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A Century of Progress

Madeleine Lee, meet Nancy Reagan

by Walter Shapiro

Without the benefit of full-page ads in *The New York Times Book Review* or carefully constructed window displays at Walden Books, I managed to stumble across what is unquestionably the best and most perceptive Washington novel of '80.

The plot revolves around a star-crossed romance between 58-year-old Republican Senator Silas P. Ratcliffe of Illinois and Madeleine Lee, a vivacious New York heiress who comes to Washington to taste the elixir of power.

Ratcliffe, earthy, theatrical, slightly corrupt, and endlessly manipulative, is a forceful character reminiscent of the late Everett McKinley Dirksen. Madeleine Lee is one of those interchangeable Washington hostesses, often nicknamed Muffy or Buffy, who, thanks to money, breeding, good cheekbones, and a knack for flattering the powerful, can summon cabinet secretaries and key senators to her intimate little dinner parties.

Their romance takes place against the backdrop of the transition between one lackluster president and another. Ratcliffe should have been president; he narrowly lost the nomination, and the defeat still rankles. The new president names Ratcliffe treasury secretary under the old adage that a powerful rival is less trouble on the inside pissing out than on the outside pissing in.

Ratcliffe, using techniques that would make David Stockman drool with envy, quickly transforms the new president into a helpless marionette.

One doesn't know what was going through Ronald Reagan's mind, as he seemed to spend most of the transition period visiting the meat locker on his California ranch. But it is quite possible that Reagan resembled this novel's fictionalized president, who found himself "overwhelmed with public business.... His mind was muddled by the innumerable visitors to whom he had to listen. But his greatest anxiety was the inaugural address, which, distracted as he was, he could not finish, although in another week it must be delivered."

Washington abhors a power vacuum. There is always a Silas Ratcliffe or a Lloyd Cutler ready to step in and make life easy for a confused president. In the novel, Ratcliffe "lifted the weight of affairs" from the president's "shoul-

Walter Shapiro is a staff writer for The Washington Post, *and a contributing editor of* The Washington Monthly.

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ders with hardly an effort. He took most of the president's visitors at once into his own hands and dismissed them with great rapidity." Ratcliffe even took a look at the unfinished inaugural address and returned it "the next day with such notes and suggestions as left nothing to be done beyond copying them."

Enough of this little literary game of one-upsmanship. The novel in question is *Democracy* by Henry Adams. It was published anonymously in '80 all right—1880. It is something of a *roman a clef,* with Ratcliffe modeled after James G. Blaine, a man known affectionately as "the continental liar from the state of Maine."

"Washington is a city so obsessed with the present that anyone who can remember the Eisenhower administration is viewed as understanding the full sweep of human history...."

According to a recent biography of Adams,* Blaine was "the *bete noire* of the Adams circle" because he "had supposedly taken bribes from the railroads." Elsewhere, the biography notes without a touch of irony that Adams and his wife often entertained another equally corrupt senator "largely because of his beautiful and lively wife...the niece of General William T. Sherman."

This kind of hypocrisy remains a Washington staple. Good manners and a lovely wife can cover a multitude of sins. Go beyond the obvious example of the parties at the Iranian embassy during the Shah's reign. Just think for a moment of the continuing social eminence of such questionable characters as Anna Chennault and Tommy "the Cork" Corcoran.

Washington is a city so obsessed with the present that anyone who can remember the Eisenhower administration is viewed as understanding the full sweep of human history. Reading *Democracy* is a potent reminder of how little the dance of power has changed in 100 years.

There is a delight in noting the topicality of some of the small details and wry observations in the novel. A minor character is trying to win reappointment as the American minister to Spain because he recognizes that an ambassadorship is "the nearest approach to a patent of nobility and a government pension which an American citizen can attain."

Ratcliffe, while still in the Senate, tries to head off an embarrassing scandal by seeking the help of the 19th-century equivalent of J. Edgar Hoover: "Wilson Keen was chief of the Secret Service Bureau in the Treasury Department, and, as the depository of all secrets, was often called upon for assistance, which he was very good-natured in furnishing to senators, especially if they were likely to be Secretaries of the Treasury."

Remember Tongsun Park? He oozed his way into the center of Washington society by recognizing that elected officials are willing to be friendly to almost anyone who can offer them a taste of the good life. In the novel, the wife of an accomplished lobbyist explains that many senators and congressmen who can't be bought with cash bribes come around when they are invited to "suppers and cards and theatres and all sorts of things."

The relationship of politics and society is the central theme of the novel. Adams recognizes the fundamental American contradiction: how democracy itself invariably founders when caught between our egalitarian rhetoric and our love of pomp and ceremony and an exalted governing class.

Nowhere is this theme more apparent than in the carefully drawn characters of Lee, a 30-year-old widow with a house on Lafayette Square, and Ratcliffe, the "Prairie Giant."

Madeleine Lee revels in becoming the confidante and, perhaps, wife of the most powerful man in Washington. After all, she came to Washington to see "the tremendous force of government and the machinery of society at work. What she wanted was POWER."

Adams is not talking about the power to shape events, but rather the power of the omniscient voyeur. Any discussion of sex and power in Washington invariably gets hung up on backstairs romances involving women like Liz Ray. Far more important are the flirtations and couplings of the modern equivalents of Madeleine Lee.

Today they are apt to be network correspondents or White House assistants, instead of bored heiresses. But their motivation is constant over time. A few years ago one decorative Washington woman, who was engaged to a

**Henry Adams and the American Experiment,* by David R. Contosta, Little, Brown, 1980.

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senator involved in a tough reelection fight, was asked—seriously—by a female friend, "Do you intend to marry him *even if he loses?*"

There are parallels to Silas Ratcliffe in every Congress and every administration. In the public arena, they are fearless bulls, powerful elemental forces. But invite them to a dinner party and they bristle at the first French phrase and they quake over choosing the wrong fork. Adams describes Ratcliffe as "little better than a school boy" when confronted with the bright chitchat in Madeleine Lee's parlor.

Not satisfied with his own life and his own self-made achievements, Ratcliffe became obsessed with the New York socialite: "He would have given his Senatorship for a civilized house like Mrs. Lee's, with a woman like Mrs. Lee at its head, and twenty thousand a year for life."

Ultimately, Ratcliffe did not have a choice. Madeleine Lee was unattainable. She spurned his proposal of marriage after she learned that he had once taken a $100,000 bribe. Adams uses her genteel shock at Ratcliffe's "immorality" to illustrate the age-old conflict between patrician reformers and practical politicians. But the novel contains another equally topical moral.

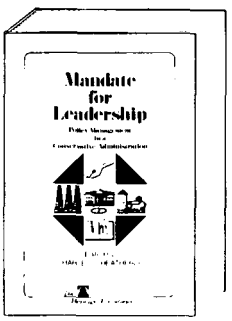
Ronald Reagan is the antithesis of Silas Ratcliffe. One of the new president's most admirable qualities is that he seems genuinely content with who he is. Perhaps it's because he will always look at politics as a second career. In contrast, Lyndon Johnson and Richard Nixon were haunted by gnawing feelings of social inferiority. Even Jimmy Carter, one of our saner presidents, sometimes made you think he wished he had gone to Harvard.

But it is the rest of the Reagan administration that gives one pause. In his wake, Reagan has brought in a regime filled with people who have scores to settle with their social betters. Alexander Haig is an obvious example. The monetarists in the sub-cabinet at Treasury must hate the orthodox Keynesians who sneered at them for years. Then there is Nancy Reagan and her coterie, who believe that their divine mission is to convince the world that Rosalynn Carter was tacky.

Silas Ratcliffe was a good man in bad times who aspired to something he wasn't. The answer is not a government of those who grew up with Tiffany instead of Tupperware. Rather, it is a government of men and women who are committed to public service, regardless of their ideology, instead of a government of those who came to Washington because they liked going to parties in white tie and tails. ■

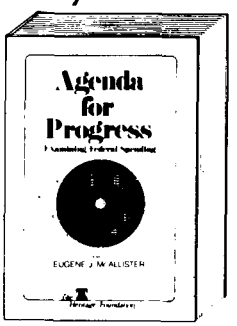
Two reasons Counselor to the President Ed Meese says,

"The Reagan Administration will rely heavily on The Heritage Foundation."



When advance copies of this book were delivered to President-elect Reagan's transition office the week after the election, everyone started talking. This "extraordinarily detailed guideline for the Reagan team" (New York Times) contains, "not vague theorizing, but chapter and verse specifics, the nitty gritty of the Right way to govern" (Dallas Morning News). This "blueprint for grabbing the government by its frayed New Deal lapels and shaking out 48 years of liberal policies" (United Press International) is "unprecedented in its scope and depth" (new budget director David Stockman). Outgoing Senator Birch Bayh calls it "most disturbing," while incoming Counselor to the President Edwin Meese finds it "very impressive."

For a glimpse ahead at the Reagan Administration, read *Mandate for Leadership*. Distributed by Caroline House: $12.95 (paperback); $21.95 (hardcover).



David Stockman, President-elect Reagan's budget director, wrote that Mandate for Leadership "only whets my appetite for The Heritage Foundation's *next* effort." This is it.

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Memo of the Month

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

TO : All Executive Staff

DATE: February 8, 1980

REFER TO: SAX

FROM : Herbert ~~R.~~ HRD Doggette, Jr.
Deputy Commissioner (Operations)

SUBJECT: Program Misuse and Management Inefficiency--INFORMATION

In a recent meeting, Secretary Harris informed us that in the future, rather than using the phrase, "fraud, abuse, and waste," she would prefer "program misuse and management inefficiency." I agree that the Secretary's terminology more accurately reflects what we are measuring and working to eliminate. The change is effective immediately; please see that is is effected in your areas of responsibility.

cc:
OC
OGC

OC # 0393

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Who's Who in the Administration

One thing any shrewd bureaucrat does when faced with a potential turf fight is to place his own people in the office of his competition. Both Alexander Haig and Edwin Meese have been playing this game. Haig saw to it that the two of his top aides from his days as NATO Commander, **Admiral James W. Nance** and **Major General Robert L. Schweitzer**, got jobs on the National Security Council staff. There they can keep an eye on Richard Allen and report back to Haig if Allen gets any big ideas about who really runs American foreign policy. Meese, on the other hand, has his own ideas about who should speak for the United States—namely the President. Since Haig is not a Reagan intimate, Meese thought it would be a good idea to put someone over at Foggy Bottom as Deputy Secretary whose real allegiance was to Ronald Reagan, not Alexander Haig. The man they found was **William P. Clark**, who was Reagan's top aide in Sacramento and a close personal friend of the President.

Clark knows absolutely nothing about American foreign policy. His confirmation hearings made him the laughing stock of the capital. But even the ostensible reason Clark was confirmed—his administrative and bureaucratic skills—are not as good as advertised. According to lawyers familiar with the California Supreme Court, the one-time law school drop-out was a loner during his five years on the bench. He showed no ability to exercise the internal political skills necessary to build the kinds of coalitions among justices that influence decisions. As an in-fighter, Clark is nothing much. Given that, Haig has the upper hand in early bureaucratic skirmishing. He is assured of complete dominance within his own department, if not throught the government. For the time being, anyway . . . .

. . . Carter insiders report that if the Carter administration had continued in power the most dramatic news reported below would have been the departure of national security adviser **Zbigniew Brzezinski**. The signs of this were clear in the final months of the Carter presidency. Brzezinski did not participate in the final negotiations for the release of the hostages, and after the hostages were released, he was not invited to accompany the former President on the trip to Wiesbaden, West Germany.

In

WHITE HOUSE

Assistant to the President for Political Affairs—**Lyn Nofziger** was Ronald Reagan's press secretary during the campaign.

Assistant to the President for Legislative Affairs—**Max L. Friedersdorf** was chairman of the Federal Election Commission.

Counsel to the President—**Fred Fielding** was chief assistant to White House counsel John Dean during the Nixon administration.

Chairman, Council of Economic Advisors—**Murray L. Weidenbaum** has been head of the Reagan transition team on regulatory issues and before that was assistant secretary of the treasury under President Nixon.

Special Trade Representative—**Bill Brock** has been chairman of the Republican National Committee.

Assistant Counselor to the President—**Edwin W. Thomas**, an aide to Reagan in California, will report to Edwin Meese.

Deputy Assistant to the President—**Joseph W. Canzeri**, tour director for Reagan's 1980 campaign and earlier a long-time aide to Nelson Rockefeller, will report to Michael K. Deaver.

Deputy Press Secretary—**Larry Speakes** is a former Ford administration press officer and vice president of the Washington public relations firm of Hill & Knowlton.

Deputy Assistant to the President and Director of the Office of Policy Development—**Edwin J. Gray** served as deputy chief of staff for the Reagan-Bush committee.

Special Assistant to the President for Policy Development—**Kevin R. Hopkins** was also a senior policy analyst for the Reagan campaign.

Deputy Assistant to the President for National Security Affairs—**Rear Admiral James W. Nance** was Alexander Haig's top naval adviser when Haig was NATO commander.

National Security Council Assistant for Defense Planning—**Major General Robert L. Schweitzer** has been chief of the policy branch of NATO under Haig.

Associate Director, Office of Management and Budget—**James C. Miller** has been a resident scholar of the American Enterprise Institute's Center for the Study of Government Regulation.

Deputy Director for Presidential Personnel—**A. Wayne Roberts** was a regional political director on the Reagan/Bush campaign.

Deputy Director for Presidential Personnel—**Richard D. Shelby** was also a Reagan/Bush regional political director.

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AGRICULTURE

Deputy Secretary—**Richard F. Lyng** was assistant secretary of agriculture during the Nixon and Ford administrations.

Assistant Secretary for Marketing and Transportation Services—**C. W. McMillan** has been an executive of the National Cattlemen's Association.

Assistant Secretary for Economics—**William Gene Lesher** has been chief economist for the Senate Agriculture Committee.

Assistant Secretary for International Affairs and Commodity Programs—**Seeley Lodwick** is a former aide to Senator Roger Jepsen (R-Iowa).

COMMERCE

Deputy Secretary—**Joseph F. Wright, Jr.** has been an executive of Citicorp in New York.

DEFENSE

Secretary of the Army—**John O. Marsh, Jr.** is a former Democratic member of the House of Representatives from Virginia and aide to President Ford.

Secretary of the Navy—**John F. Lehman, Jr.** is former deputy director of the Arms Control and Disarmament Agency.

Secretary of the Air Force—**Verne Orr** is a former director of the California Department of Motor Vehicles and adjunct professor of public administrtion at the University of Southern California.

HEALTH AND HUMAN SERVICES

Undersecretary—**David Swoap** was Reagan's welfare aide in California.

HOUSING AND URBAN DEVELOPMENT

Undersecretary—**Donald Hovde** has been president of the National Association of Realtors.

INTERIOR

Undersecretary—**Donald P. Hodel** has been an energy consultant and is a former administrator of the Bonneville Power Administration.

JUSTICE

Deputy Attorney General—**Edward C. Schmults** is a former treasury undersecretary and deputy counsel to President Ford.

STATE

Deputy Secretary—**William P. Clark** has been a justice of the California Supreme Court and in earlier years executive assistant to then-Governor Reagan.

Undersecretary for Coordination of Security Assistance Programs—**James L. Buckley** is a former U.S. senator from New York.

Undersecretary for Management—**Richard T. Kennedy** has been a member of the Nuclear Regulatory Commission.

Undersecretary for Political Affairs—**Walter J. Stoessel, Jr.** has been U.S. ambassador to West Germany.

Director, Bureau of Politico-Military Affairs—**Richard Burt** has been national security affairs reporter for *The New York Times*.

Director of Policy Planning—**Paul Wolfowitz** formerly served as special assistant for SALT at the Arms Control and Disarmament Agency.

Assistant Secretary for Congressional Relations—**Richard Fairbanks** has been a transition aide and partner in the Washington law firm of Beveridge, Fairbanks and Diamond.

Director General of the Foreign Service—**Joan M. Clark** has been Ambassador to Malta.

TRANSPORTATION

Deputy Secretary—**Darrell M. Trent** was a senior research fellow and associate director of the Hoover Institution at Stanford University.

Assistant Secretary for Governmental Affairs—**Lee L. Verstandig** has been an aide to Senator John H. Chafee.

Administrator, Federal Highway Administration—**Ray Barnhart** has been a Texas insurance agent and highway commissioner.

Administrator of the Federal Railroad Administration—**Robert W. Blanchette** has been a partner in the Washington law firm of Alston, Miller and Gaines.

TREASURY

Deputy Secretary—**R. T. McNamar** was executive vice president of Beneficial Standard Corp. and prior to that executive director of the Federal Trade Commission.

Undersecretary for Tax Policy—**Norman B. Ture** has been a Washington economic consultant.

Undersecretary for Monetary Affairs—**Beryl Sprinkel** has been executive vice president of the Harris Trust and Savings Bank of Chicago.

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Assistant Secretary for Economic Policy—**Paul Craig Roberts** is a fellow at Georgetown University's Center for Strategic and International Studies and former editorial writer for the *Wall Street Journal.*

Assistant Secretary for Legislative Affairs— **W. Dennis Thomas** has been administrative assistant to Senator William Roth.

Commissioner, Internal Revenue Service—**Roscoe L. Egger, Jr.** has been an executive in the accounting firm Price Waterhouse.

AGENCIES AND COMMISSIONS

Central Intelligence Agency
Deputy Director—**B. R. Inman** has been director of the National Security Agency.

National Highway Traffic Safety Administration
Administrator—**Raymond A. Peck, Jr.** has been vice-president of the National Coal Association.

Out

White House
Vice President of the United States—**Walter F. Mondale** will join the Washington office of Winston and Strawn, a Chicago-based law firm. Mondale will also commute to Minnesota to teach seminars at several universities.

Assistant to the President for Domestic Affairs—**Stuart Eizenstat** will return to the Atlanta-based law firm of Powell, Goldstein, Frazer and Murphy as head of the Washington office.

Secretary of the Cabinet—**Eugene Eidenberg** will teach at the Institute of Politics at Harvard University.

Deputy Secretary to the Cabinet—**Bruce Kirschenbaum** will join the Washington office of the New York firm Stroock, Stroock and Lavan.

White House Staff Director—**Alonzo McDonald** will start a venture capital business with his former deputy, **Mike Rowney.**

Appointments Secretary—**Phil Wise** has returned to Georgia with former President Carter as Carter's chief of staff.

Assistant to the President—**Anne Wexler** will also teach at the Harvard Institute of Politics before starting a consulting firm.

Assistant to the President—**Sarah Weddington** will be Washington columnist and contributing editor for *Glamour* magazine.

Deputy Assistant to the President—**Michael Chanin** has joined the Washington office of the Atlanta law firm, Powell, Goldstein, Frazer & Murphy.

Deputy Assistant to the President for Congressional Liaison—**William Cable** will be joining the Washington law firm of Williams & Jensen.

Chairman, Council of Economic Advisers—**Charles Schultze** will teach economics at the University of Maryland, College Park, and return to the Brookings Institution as a senior fellow.

Science Adviser—**Frank Press** will be president of the National Academy of Sciences.

Executive Associate Director, Office of Management and Budget—**W. Bowman Cutter** will join the Washington office of the accounting firm of Coopers and Lybrand as an energy expert.

Chairman, Council on Environmental Quality—**Gus Speth** will work for the Conservation Foundation, a Washington environmental research association.

Chief of Staff for Vice President Mondale—**Richard Moe** will be joining the Washington office of the New York law firm, Davis, Polk & Wardwell.

Defense
Secretary—**Harold Brown** will teach part time at the Johns Hopkins University School of Advanced International Studies.

Commerce
Assistant Secretary for Policy—**Jerry Gasinowski** will be chief economist for the National Association of Manufacturers.

Energy
Deputy Secretary—**Lynn Coleman** will join the new energy division of the Washington office of Skadden, Arps, Slate, Meagher and Flom, a New York law firm.

Assistant Secretary for International Affairs—**Leslie Goldman** will also join the firm of Skadden, Arps.

Health and Human Services
Assistant Secretary for Health—**Julius B. Richmond** will continue in the post of surgeon general until his term expires in June.

Commissioner of the Food and Drug Administration—**Jere Goyan** will return to his former post as dean of the School of Pharmacy at the University of California.

Housing and Urban Development

Assistant Secretary for Housing—**Lawrence B. Simons** will join the Washington office of the Atlanta law firm of Powell, Goldstein, Frazer & Murphy.

Interior
Secretary—**Cecil B. Andrus** will return to Idaho.

Justice
Assistant Attorney General and Chief of the Civil Rights Division—**Drew S. Days III** will become a professor of law at Yale University.

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Assistant Attorney General, Tax Division—**M. Carr Ferguson** will join the New York law firm of Davis, Polk and Wardwell and return to the faculty of the New York University Law School.

State

Ambassador to the United Nations—**Donald F. McHenry** will join the faculty of Georgetown University.

Assistant Secretary of State for African Affairs—**Richard Moose** will join the investment firm of Lehman Brothers, Kuhn, Loeb, Inc., where he will advise on African affairs.

Chief of Protocol—**Abelardo L. Valdez** will be a partner in the new Washington office of Finley, Kumble, Wager, Heine, Underberg & Casey.

Ambassador to El Salvador—**Robert E. White** has resigned at the request of the Reagan administration after less than a year in the job.

Treasury

Assistant Secretary for International Affairs—**C. Fred Bergsten** will become a senior associate in the Washington office of the Carnegie Endowment for International Peace.

Assistant Secretary for Congressional Affairs—**Gene Godley** has joined the Washington office of the Houston law firm of Bracewell & Patterson.

Commissioner, Internal Revenue Service—**Jerome Kurtz** will join the new Washington office of Paul Weiss, Rifkind, Wharton and Garrison, a New York law firm.

Agencies and Commissions

ACTION

Director—**Sam Brown** will return to Colorado, where he will teach at the Aspen Institute and form a firm devoted to promoting alternative energy sources.

Environmental Protection Agency

Administrator—**Douglas Costle** will teach at Harvard's Kennedy School of Government and School of Public Health before returning to Connecticut.

Equal Employment Opportunity Commission

Chair—**Eleanor Holmes Norton** has resigned.

President, Export-Import Bank—**John L. Moore, Jr.** will join the Washington law firm of Surrey and Morse.

Office of Personnel Management

Deputy Director—**Jule M. Sugarman** will be vice-president of the U.S. Council for the International Year of Disabled Persons.

Associate Director for Executive Personnel and Management Development—**Sally Greenberg** has retired from the federal government.

Synthetic Fuels Corporation

Chairman—**John C. Sawhill** has resigned.

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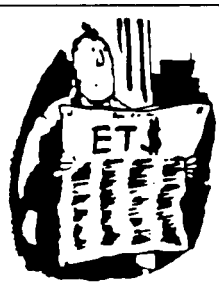

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Where to Stay in Washington

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Massachusetts Avenue to K Street between 15th and 20th Streets, N.W.

The Madison, 15th and M Sts.,N.W., (202) 862-1600. Unabashed luxury is the Madison's claim to fame. Chinese ebony cabinets inlaid with jade and ivory adorn the lobby. Crewel bedspreads from India, bronze lamps, and Chinese silk flowers lend elegance to the rooms. Baths have heated towel racks, scales, marble vanities, and telephones, and some have bidets. Guests are given keys to their own fully stocked miniature bars (you have to pay for what you take, however).

Singles are $96-$115; doubles $116-$165; suites start at $210. A third person (including children) in any room is $20; parking is $7.50 a night. The clientele consists mostly of corporate executives and foreign dignitaries; some suites are rented by corporations on a permanent basis. The upper lobby offers eight tasteful meeting rooms designed for group functions, but not conventions.

Among the hotel's restaurants, **Le Montpelier** has a reputation for graciousness. Lunch and dinner (or Sunday brunch) there will definitely cost you, but the atmosphere is pure elegance. **The Retreat**, a less formal English pub, is priced, well, a bit lower. **Le Provence** is billed as a "coffee house," but in this colorful French-style cafe only breakfast and lunch are reasonably priced.

The Madison has 372 rooms. For those who prefer a more intimate arrangement, the same management runs the **Dolley Madison**, half a block away. With only 44 rooms, its atmosphere and furnishings are reminiscent of a hospitable French *auberge*. Prices are the same as the main hotel. There's a small dining room if you don't feel like venturing out.

The Jefferson, 1200 16th St., N.W., (202) 347-4704. The emphasis here is on the personal touch. From hand-washed laundry to complimentary shoe-shine, the Jefferson is perfect for those who appreciate the privacy of a small hotel but still like to be fussed over. Almost all of Ronald Reagan's cabinet secretaries lived there while seeking permanent housing.

Most of the 100 rooms feature traditional hotel decor, although you'll find some Chinese furniture, canopied beds, and French-door windows here and there. Singles start at $85, doubles at $95; suites with kitchenette begin at $175. It's possible to get a single with kitchen for $100-$110. On weekends all rooms except suites are $75-$85 and there is a reduced rate for businessmen staying over the weekend. The hotel also offers a weekend package with accommodations for two nights, a Friday evening snack, Saturday breakfast, a two-hour limo ride through Washington, and Sunday brunch for $200 per couple. Parking is $7.50 a night (but free for restaurant patrons).

Another endearing feature of the Jefferson is the assurance that you'll never be mowed down by a mob of nametag-sporting conventioneers, since there is only one meeting room. Another charm is the **Hunt Club** dining room, with lots of intimate little nooks and Chippendale chairs. The special Jeffersonian dinner features seasonal game, for those so inclined, while the white chocolate mousse is not to be missed.

The Mayflower, 1127 Connecticut Ave., N.W., (202) 347-3000. This has to be Washington's most conveniently located hotel, surrounded by fine restaurants and shops and with a Metro stop by its front doors and the longest line of cabs in town. All this, coupled with meeting rooms for 20 to 1,000, makes it a businessman's dream. Some of the old-time Washington charm has been diminished by lighted signs over the meeting room entrances and a lobby bar that borders on tacky, but the rooms, thankfully, are tasteful.

The hotel has a series of recently renovated suites, the "35-36 series": a pleasant parlor that could serve as a small meeting room, and a bedroom and bath. Price: $185. Renovation of the rest of the Mayflower's 700 rooms will be completed during a $60 million restoration project scheduled to begin soon. Meanwhile singles are $60-$113; doubles, $87-$133. The lower-priced rooms are not renovated, and they are usually not rented unless the hotel is booked. There are two deluxe suites, the Presidential ($450) and the Mayflower ($350). Children under 18 stay with their parents free; parking is $4.75 a night. There are two- and three-night sightseeing packages ($99 and $149 per person, double occupancy) which include breakfast, dinner and all-day passes for the Tourmobile.

The Carvery, the main dining room, serves all three meals, offering dinner entrees starting at $10.50 and a different Scarsdale lunch daily. The Carvery used to be J. Edgar Hoover's favorite lunch spot, and his regular seat is marked with a commemorative plaque. **The Town and Country**, less formal but more reasonably priced, serves a continental breakfast and lunch on weekdays. There are drinks and a piano bar at night.

—Donna Fenn

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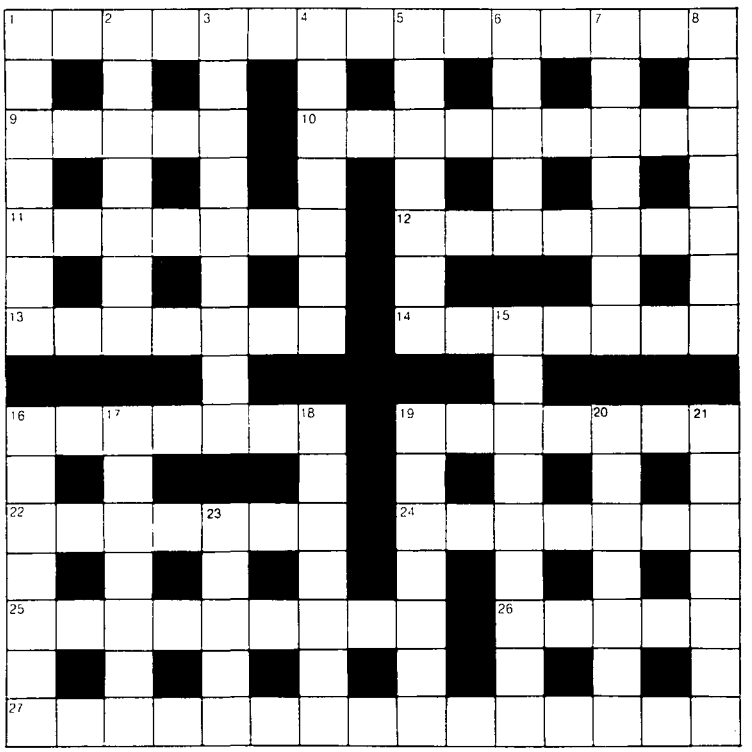
the political puzzle

by John Barclay



The numbers indicate the number of letters and words, e.g., (2,3) means a two-letter word followed by a three-letter word. Groups of letters, e.g., USA, are treated as one word.

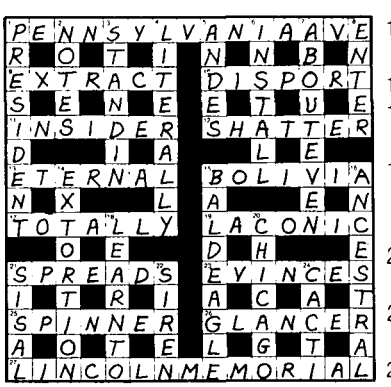
ACROSS

1. Crazy Aleut aired igloo and caused price increase. (3,12)
9. Blackball the G.I. in back. (5)
10. Wore a true wrinkled overcoat. (9)
11. Oration made by a lake. (7)
12. State article back from country. (7)
13. Make riot pay for trimming trees. (7)
14. After snail held dam up? (7)
16. Sort of cinch or enduring. (7)
19. Turn down outrageous fur sale. (7)
22. Fire self-starter? (7)
24. Talk about track event using pole. (7)
25. Teachers sometimes and impresarios always? (9)
26. Punishment after boil gets one lion angry. (2,3)
27. Washington topic: raises for linemen? (7,8)

DOWN

1. Wrinkled top one you unfold. (4,3)
2. Plug hit roughly to display at night. (5,2)
3. Contemplate what some sorts of intent are. (9)
4. Cut-back puts little company in money crunch. (7)
5. Novel future lawsuits? (7)
6. Disclosed a dire arrangement. (5)
7. Repeat Eastern attire combination. (7)
8. Standards to beat the President up! (7)
15. No fair! He's mussed. Do it again! (9)
16. Namath fouled by a hairdresser? (7)
17. Skips for fun's play. (4,3)
18. Train brought in to escort, *e.g.*, Emerson. (7)
19. Material which shifts uncomfortably used wrong way in rip. (5,2)
20. Post Office minus melting dessert. (7)
21. Final stage gets all confused. (4,3)
23. A pain turns North. (5)

Answers to last month's puzzle:



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Joseph Nocera on Political Books

Back in 1978, when the two-volume version of *How the Pope Became Infallible** first appeared in German, the reaction from the German Catholic press was swift and violent. "Warped history," wrote one reviewer. "Doesn't stand up to criticism," added another. "Up till now," chimed in a third, in the lowest cut of all, "no one has noticed that Hasler relies on Nazi propaganda."

Now the book is in English and considerably shortened. I have no doubt that it will find in the American Catholic press about the same degree of grace and tolerance that the Germans showed it. Understandably so, for when a book so resoundingly demolishes, in a single stroke, a "truth" that is supposed to be a rock-solid article of faith, what else is there left to do besides slander the author with all the vehemence one can muster, figuring that what he has to say will get lost in the resulting brouhaha?

I hope that doesn't happen. Hasler has written a brilliant work—part polemic, part history, part theology, and surprisingly readable. Hasler believes that the doctrine of papal infallibility was made Catholic dogma by means that were at least suspect, and perhaps fraudulent. He has done an excellent job of mining documents and other sources that lend support to his case (many of which had previously been undiscovered). One comes away from his book convinced that the dogma of papal infallibility (in matters of Catholic faith and morals) is on very thin ice indeed.

The doctrine itself, it turns out, is not one of those religious traditions dating back to biblical times. Papal infallibility is a modern innovation—from 1870, to be exact, during the First Vatican Council. It did not spring spontaneously from the Council, as one might suppose would be the case with a "revealed truth." Rather it was the result of something considerably less ennobling—dirty politicking. The master manipulator in the campaign for papal infallibility was the pope himself, the now-notorious Pius IX, who was, it seems, a megalomaniac, a mystic, a relentless reactionary (he thought the worst thing that ever happened to mankind was the French Revolution), and quite possibly a father to boot. He felt strongly that he was infallible and called the Council for the sole purpose of getting such status approved as official Church dogma.

Since papal infallibility would mean a considerable lessening of power for cardinals and bishops, there was great resistance to Pius IX's idea. But the pope would not be denied. His tactics included berating his opponents, attacking them through the Italian newspapers he controlled, threatening to withhold Vatican funds they depended on, and even forbidding cardinals to leave the city until the dogma had been approved. (At that time the pope still had soldiers at his disposal.) Hasler shows that Vatican I was rigged from the start, with key papal allies dominating all the important committees, and opponents (remember, these are cardinals) often being shouted off the dais when they attempted to speak.

In between the twists and turns in the plot, Hasler stops to examine (and usually devastate) the theological and historical arguments that were used as underpinnings for papal infallibility. Like Hans Kung (who wrote an introduction to the book), he feels that infallibility is one of the crucial issues facing the Church today.

I'm not so sure about that—I can think of a dozen others I would put ahead of it—but I do think the *mind set* that infallibility represents is supremely troublesome for anyone who cares about Catholicism. The infallibility mind set expresses itself in ways far more harmful to the Church than disagreements over the niceties of dogma. It tends towards authoritarianism, and a general unwillingness to adapt the Church to serve a changing world. Specifically, both Hasler and Kung point to the role infallibility played in the continuation of the Church's stand on birth

Joseph Nocera is a contributing editor of The Washington Monthly.

**How the Pope Became Infallible: Pius IX and the Politics of Persuasion.* August Bernhard Hasler. Doubleday, $14.95.

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control. None of the papal pronouncements on this subject—including the *Humanae Vitae* of Paul VI—are officially "infallible" documents. But the aura of infallibility surrounding just about everything a pope does say on matters of "faith and morals" makes succeeding popes extremely reluctant to tamper with anything their predecessors have done. Hence, Paul VI could decide when issuing his famous encyclical to ignore the recommendations of a committee he himself had established to look into the birth control question. Hence, during last year's Synod on the Family, John Paul II could adamantly affirm the Church's traditional stand even as bishop after bishop (quite courageously in many cases) rose to voice the near-unanimous belief that the stand was crippling Church credibility for millions of Catholics. John Paul II was unwilling to revise *Humanae Vitae* and thus alter Paul VI's aura of infallibility just as Paul VI had been leary of overturning the pronouncements of *his* "infallible" predecessors.

Beyond the simple silliness reflected in that sort of mind set, in the end it is just one more factor—added to the Church's stifling bureaucracy and the penchant popes have for surrounding themselves with yes-men—in keeping the pontiff from ever having to deal with reality. No important public figure—no president, king, or prime minister—is more isolated from the real world than the pope. The doctrine of infallibility reinforces this heartless isolation.

To most of us the perseverance of "infallibility" arguments may seem little more than foolish, but in the Curia they take this sort of thing very seriously. Hasler's great service to his Church is to show that the infallibility logic was foolish from the start—and that now, far from bringing the sons and daughters of the Church closer to God, it drives them away from Him. ■

political book notes

Courts: A Comparative and Political Analysis. *Martin Shapiro. Univ. of Chicago, $20.*

Crossroads. *Leon Jaworski, Dick Schneider. David C. Cook, $10.95.*

Critical Path. *R. Buckminster Fuller. St. Martin's, $14.95.*

Cutting Back City Hall. *Robert W. Poole, Jr. Universe, $12.50/$5.95.* A conservative primer of sorts for local government officials who, the author hopes, will soon find themselves in charge of city services that will have to be more efficient and competitive if they are going to make it in the lean "Prop 13" years ahead.

Poole believes the only hope for city services is to put them entirely in private, competitive hands. That includes police and firemen.

Mass transit, he says, is based on the mistaken idea that fixed-route buses and trains fill market needs. The solution he offers is to expose city transportation to competition by repealing laws that outlaw jitneys (small vehicles carrying 12 to 15 passengers) and shared-ride service in taxis (which is banned almost everywhere except Washington).

Poole has some good ideas, but his book reflects the excesses of free market thinking. It's fine to talk about user recreational fees in affluent towns where everyone can afford them. But should ghetto kids not be able to go to the park because they're poor? Should subways die? Poole lets his rhetoric get out of hand.

—Alex Heard

Eisenhower and the Cold War. *Robert A. Divine. Oxford, $14.95.*

Eisenhower the President: Crucial Days 1951-1960. *William Bragg Ewald, Jr. Prentice-Hall, $12.95.*

Federal Health Programs. *Stuart M. Altman, Harvey M. Sapolsky, eds. Lexington, $24.95.* A collection of studies of various federal government health programs. Sound dry and dull? Not so. The overview is a skillful and comprehensive exposition of what's going on in the health field and why.

—Pat Martin

Helping Ourselves: Local Solutions to Global Problems. *Bruce Stokes. Norton/Worldwatch, $12.95/$4.95.*

Human Rights and State Sovereignty. *Richard Falk. Holmes & Meier, $24.50/$12.50.*

Inflation-Proofing Your Investments. *Harry Browne, Terry Coxon. Morrow, $14.95.* In 1970, Harry Browne advised you to buy gold and Swiss francs and to head for the hills with an arsenal of canned goods and firearms. If you had followed his advice, you would be rich, lonely, and suffering from beri-beri. This time his advice is more reasonable, less likely to leave you suffering from loneliness and beri-beri, but also so qualified that you won't be able to figure out how to get rich.

—Charles Peters

The Killing of Karen Silkwood: The Story Behind the Kerr-McGee Plutonium Case. *Richard Rashke. Houghton Mifflin, $12.95.*

The Litigious Society. *Jethro Lieberman. Basic, $13.95.*

Newswork: The Washington Reporters. *Stephen Hess. Brookings, $17.95.* See "Tilting at Windmills," February.

Portraying the President: The White House and the News Media. *Michael Baruch Grossman,*

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The Public Church: Mainline-Evangelical-Catholic. *Martin E. Marty. Crossroad, $10.95.*

Reforming Government: Winning Strategies Against Waste, Corruption, and Mismanagement. *Daniel L. Feldman. Morrow, $11.95.* Feldman, a staff aide to Brooklyn congresswoman Elizabeth Holtzman, relates his attempts to unravel the intricate relationships between an inflated summer lunch program and contracts awarded without competitive bidding to community "sponsors," who profited while lunches went unserved.

The author explains that once he established a credible case, he devoted his efforts to getting press coverage. He believes that the politician's drive for favorable publicity is vital to making reform work: "Our system of political reform relies on political ambition, as well as idealism, for its success." But he has to admit his ambition-idealism strategy met with only partial success: While his boss, Holtzman, was elected to Congress on her pro-consumer reputation, few of his exposes led to permanent change.

—*P.M.*

Securing U.S. Energy Supplies. *William G. Prast. Lexington, $15.95.*

Seventeen Days in Tehran. *Robin Woodsworth Carlsen. Snow Man Press.* In March 1980 (just before the fizzled rescue mission) Canadian author and poet Carlsen spent 17 days in Tehran. He managed to persuade Iranian scholars, one of the militant "students," Bani-Sadr, Ghotbzadeh, and most of all a succession of taxi drivers to discuss the philosophical underpinnings of their revolution with him.

Carlsen says he came away greatly impressed by the dedication of Iranian leaders, their ability to apply the concepts of ancient authoritarianism and Moslem fundamentalism to modern-day life, and their intelligence in general. That he was able to judge the latter is particularly impressive, since Carlsen does not speak Farsi. He says he relied on intuition, eye contact, and psychic emanations to gather information. In this "perhaps mystical fashion" he was impressed by the philosophical purity of hostage-taking and summary executions.

He points out, for instance, that the militants at the embassy did not consider hostage-taking an act of terrorism, but rather an "innovative catalyst." It's an important psychic distinction.

As one of the former hostages said, retaliation against Iran is unnecessary; having to live there all your life is punishment enough.

—*P.M.*

Understanding Inflation. *John Case. Morrow, $9.95.*

The War Between the Generals: Inside the Allied High Command. *David Irving. Congdon & Lattes, $17.95.*

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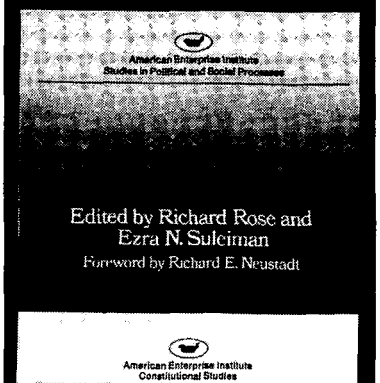

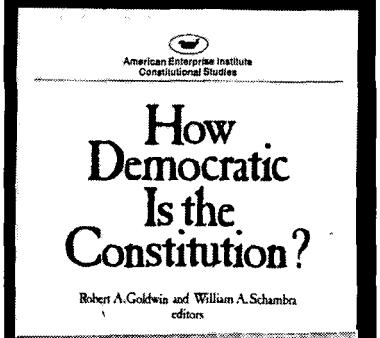

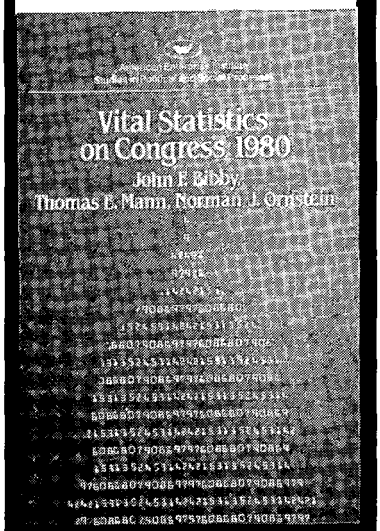

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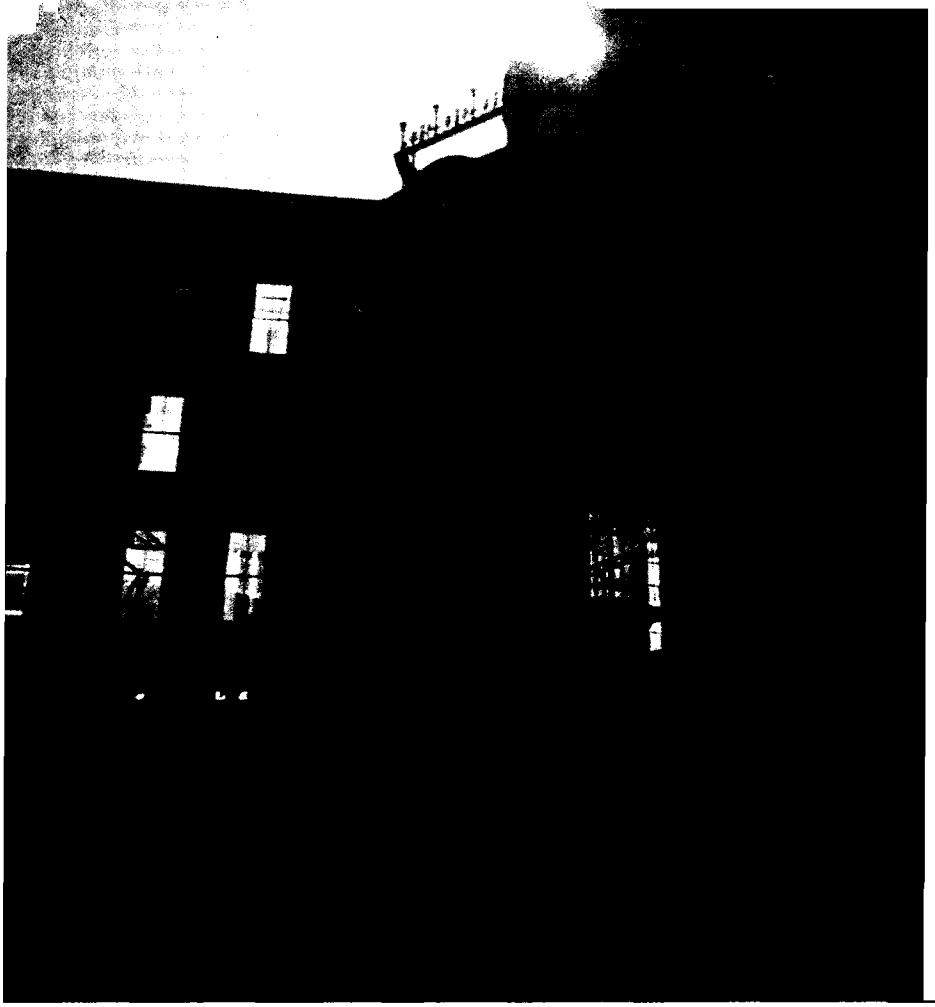


Main intersection at a Hollywood oil field.

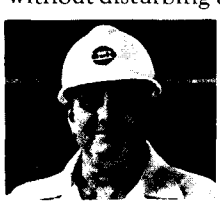
"This is the set where they shot 'Hello, Dolly!' What you can't see is us pumping oil behind it."

"One of the strangest places I ever produced oil," says Gulf Production Superintendent Eddie Culbertson, "was right here in Los Angeles, in the back lot of the 20th Century-Fox studio.

"They found an oil field right under a permanent set being used for shooting the movie 'Hello, Dolly!' in 1969.

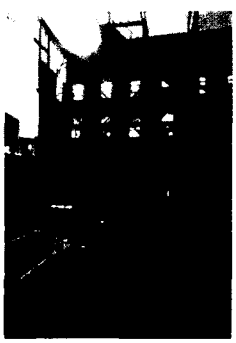
The indirect approach

"How do you get at the oil without disturbing the set, the streets, or the buildings? With a technique called directional drilling. The oil is as far as one mile from the surface location of the drill sites, which were hidden by the scenery.



"We showed them how they could have their oil and their movies."

"Directional drilling has other advantages. You can drill 20 or 30 wells from just one drill site. Or you can drill for some offshore oil without putting the drilling rig right in the water.



"Behind the scenery are 22 producing oil wells."

Keep America beautiful

"Sometimes it's a real challenge getting the oil without spoiling the landscape. Directional drilling is one way to do it.

"But there are other ways, and at Gulf we're using all of them—doing all we can to keep supplying energy for tomorrow."

Gulf

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